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THE
REVISED STATUTES
OF
ONTARIO 1887,

BEING A

CONSOLIDATION OF THE REVISED STATUTES OF ONTARIO,
1877, WITH THE SUBSEQUENT PUBLIC
GENERAL ACTS OF THE

LEGISLATURE OF ONTARIO.

VOL. I.

13618



Toronto:
PRINTED BY JOHN NOTMAN,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.
ANNO DOMINI MDCCCLXXXVII.



PRINTED AND BOUND BY
WARWICK & SONS,
TORONTO.

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ADDENDA ET CORRIGENDA.

PAGE.

6. Clause 23.—The reference should be, "R. S. O. 1877, c. 142, s. 55."
105. Section 38.—The reference should be, "R. S. O. 1877, c. 10, s. 39."
211. Section 61.—The reference should be, "R. S. O. 1877, c. 12, s. 58."
281. Section 2 (2).—The reference should be, "50 V. c. 4, s. 3."
293. Section 29.—The reference should be, "50 V. c. 8, Schedule (2)."
316. Section 10.—The reference should be, "R. S. O. 1877, c. 26, s. 9."
447. Section 3 (6).—Add the following reference, "c. 40, s. 5."
453. Section 30.—Omit reference to "c. 112, s. 47."
580. Section 175.—Omit reference to "c. 50, s. 319."
725. Section 2.—For "c. 80, s. 1 *part*," read, "c. 80, ss. 1 *part*, 6."
836. Section 12 (4).—Add the following reference, "48 V. c. 18, s. 2 *part*."
849. Section 49, last line.—For "referred to in the said Act," read, "referred to in the said chapter 84."
854. Item 33.—The reference should be, "R. S. O. 1877, c. 86, schedule sheriff; 45 V. c. 11, s. 13."
885. Section 62.—The reference should be, "43 V. c. 12, s. 12 (1, 3, 5); 48 V. c. 20, s. 6 (4)."
891. Section 81.—The reference should be, "R. S. O. 1877, c. 7, s. 14; c. 90, ss. 5, 57."
1095. Section 24 (2).—The reference should be, "48 V. c. 22, s. 22."
1143. Rule 60 (1), in line 3.—For "section 96," read, "section 97."
1221. Section 19.—Omit from reference "47 V. c. 18, ss. 2, 3."
1278. Section 10.—The reference should be, "R. S. O. 1877, c. 132, s. 1; 44 V. c. 16, ss. 1, 3."
1279. Section 12.—The reference should be, "R. S. O. 1877, c. 132, s. 3; 44 V. c. 16, s. 2."
1302. Section 14.—Add reference to "49 V. c. 28, s. 14."
1410. Section 57.—The reference should be, "50 V. c. 25, s. 57."
1614. Line 2.—For "registrar," read, "register."
1847. Section 293, clause 3.—The reference should be, "49 V. c. 37, s. 5."
2142. Section 190.—The reference should be, "R. S. O. 1877, c. 180, s. 157."
2147. Section 206.—Add reference to "46 V. c. 18, s. 24."
2156. Schedule "B."—In reference for "45 V. c. 32, s. 2," read, "42 V. c. 32, s. 1; 44 V. c. 4, s. 1; c. 25, s. 1."
2274. Section 65.—The reference should be, "50 V. c. 34, s. 5."
2351. Section 5.—The reference should be, "R. S. O. 1877, c. 196, s. 5."
2406. Section 82 (4).—The reference should be, "48 V. c. 49, s. 82 (4, 5)."
2501. Section 6.—Add reference to "50 V. c. 42, s. 6."
2587. Section 5.—Add reference to "46 V. c. 18, s. 478."

The word "new" at the end of a section indicates that the section appeared in the Draft Revised Statutes submitted to the Legislature and adopted by the Act 50 Victoria, cap. 2, but that it was not separately enacted.

THE REVISED STATUTES OF ONTARIO, 1887.

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IMPERIAL ACTS RELATING TO THE CONSTITUTION OF THE DOMINION OF CANADA AND OF THE VARIOUS PROVINCES THEREIN COMPRISED.

IMP. ACT 30-31 VICT. c. 3.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

[29th March, 1867.]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick, have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom:

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the British Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the Union of other parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—PRELIMINARY.

1. This Act may be cited as *The British North America Act, 1867*. Short title.

Application of provisions referring to the Queen. 2. The provisions of this Act referring to Her Majesty the Queen extend also to the heirs and successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

II.—UNION.

Declaration by proclamation of Union of Canada, Nova Scotia and New Brunswick, into one Dominion under name of Canada. 3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

Commencement of subsequent provisions of Act. 4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

Meaning of Canada in such provisions.

Four Provinces. 5. Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Provinces of Ontario and Quebec; 6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick. 7. The Provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this Act.

Population of Provinces to be distinguished in decennial census. 8. In the general census of the population of Canada which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER.

Executive Power to continue vested in the Queen. 9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of provisions referring to Governor-General. 10. The provisions of this Act referring to the Governor General extend and apply to the Governor General for the time being of Canada, or other the Chief Executive Officer or Ad-

ministrator, for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

11. There shall be a Council to aid and advise in the Gov- Constitution
ernment of Canada, to be styled the Queen's Privy Council for Canada; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor General and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor General.

12. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the advice or with the advice and consent of or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

All powers under Acts to be exercised by Governor General with advice of Privy Council or alone.

13. The provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the advice of the Queen's Privy Council for Canada.

Application of provisions referring to Governor General in Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from time to time to appoint any person or any persons jointly or severally to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the Governor General such of the powers, authorities, and functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a Deputy or Deputies shall not affect the exercise by the Governor General himself of any power, authority or function.

Power to Her Majesty to authorize Governor General to appoint Deputies.

Command of armed forces to continue to be vested in the Queen.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of Government of Canada.

16. Until the Queen otherwise directs the seat of Government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER.

Constitution of Parliament of Canada.

17. There shall be one Parliament for Canada, consisting of the Queen, an Upper House, styled the Senate, and the House of Commons.

[Section 18 was repealed by Imperial Act 38 and 39 Vict. c. 38, and the following section substituted therefor.]

Privileges, etc. of Houses.

18. The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.]

First Session of the Parliament of Canada.

19. The Parliament of Canada shall be called together not later than six months after the Union.

Yearly Session of the Parliament of Canada.

20. There shall be a Session of the Parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one Session and its first sitting in the next Session.

The Senate.

Number of Senators.

21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators.

[The Senate now includes representatives of the Province of Manitoba, British Columbia, and Prince Edward Island.]

Representation of Provinces in Senate.

22. In relation to the constitution of the Senate, Canada shall be deemed to consist of three divisions—

1. Ontario;
2. Quebec;

3. The Maritime Provinces, Nova Scotia and New Brunswick; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four Senators; Quebec by twenty-four Senators; and the Maritime Provinces by twenty-four Senators, twelve thereof representing Nova Scotia, and twelve thereof representing New Brunswick.

In the case of Quebec each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to chapter one of the Consolidated Statutes of Canada.

23. The qualification of a Senator shall be as follows :— Qualification of Senator.

1. He shall be of the full age of thirty years :
2. He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union.
3. He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised or possessed for his own use and benefit of lands or tenements held in franc-aleu or in roture, within the Province for which he is appointed, of the value of \$4,000 over and above all rents, dues, debts, charges, mortgages, and incumbrances due or payable out of or charged on or affecting the same :
4. His real and personal property shall be together worth \$4,000 over and above his debts and liabilities :
5. He shall be resident in the Province for which he is appointed :
6. In the case of Quebec he shall have his real property qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

24. The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate ; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator. Summoning of Senators.

25. Such persons shall be first summoned to the Senate as the Queen by warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union. Summons of first body of Senators.

26. If at any time on the recommendation of the Governor-General the Queen thinks fit to direct that three or six members be added to the Senate, the Governor General may by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the Senate accordingly. Addition of Senators in certain cases

Reduction of Senate to normal number. **27.** In case of such addition being at any time made the Governor General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four Senators and no more.

Maximum number of Senators. **28.** The number of Senators shall not at any time exceed seventy-eight.

Tenure of place in Senate. **29.** A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

Resignation of place in Senate. **30.** A Senator may by writing under his hand addressed to the Governor General resign his place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senators. **31.** The place of a Senator shall become vacant in any of the following cases :

1. If for two consecutive Sessions of the Parliament he fails to give his attendance in the Senate :
2. If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power :
3. If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter :
4. If he is attainted of treason or convicted of felony or of any infamous crime :
5. If he ceases to be qualified in respect of property or of residence ; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the Government of Canada while holding an office under that Government requiring his presence there

Summons on vacancy in Senate. **32.** When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor General shall by summons to a fit and qualified person fill the vacancy.

Questions as to qualifications and vacancies in Senate. **33.** If any question arises respecting the qualification of a Senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

Appointment of Speaker of Senate. **34.** The Governor General may from time to time, by instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

35. Until the Parliament of Canada otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers. Quorum of Senate.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative. Voting in Senate.

The House of Commons.

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick. Constitution of House of Commons in Canada.

[The number of members is now 215, the Province of Ontario having ninety-two, Quebec sixty-five, Nova Scotia twenty-one, New Brunswick sixteen, Prince Edward Island six, British Columbia six, Manitoba five, and the North West Territories four. See Rev. Stat. C. 1886, caps. 6 and 7.]

38. The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon and call together the House of Commons. Summoning of House of Commons.

39. A Senator shall not be capable of being elected or sitting or voting as a member of the House of Commons. of Senators not to sit in House of Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the purposes of the election of members to serve in the House of Commons, be divided into Electoral Districts as follows:— Electoral districts of the four Provinces

1.—ONTARIO.

Ontario shall be divided into the Counties, Ridings of Counties, Cities, parts of Cities, and Towns enumerated in the first Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return one member.

[See Rev. Stat. C., 1886, c. 6.]

2.—QUEBEC.

Quebec shall be divided into sixty-five Electoral Districts, composed of the sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under chapter two of the Consolidated Statutes of Canada, chapter seventy-five

of the Consolidated Statutes of Lower Canada, and the Act of the Province of Canada of the twenty-third year of the Queen, chapter one, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the purposes of this Act an Electoral District entitled to return one member.

[*See Rev. Stat. C., 1886, c. 6.*]

3.—NOVA SCOTIA.

Each of the eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return two members, and each of the other Counties one member.

[*See Rev. Stat. C., 1886, c. 6.*]

4.—NEW BRUNSWICK.

Each of the fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District; the City of St. John shall also be a separate Electoral District. Each of those fifteen Electoral Districts shall be entitled to return one member.

[*See Rev. Stat. C., 1886, c. 6.*]

Continuance
of existing
election laws
until Parlia-
ment of Cana-
da otherwise
provides.

41. Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any election for a Member of the House of Commons for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject aged twenty-one years or upwards, being a householder, shall have a vote.

[*See Rev. Stat. C., 1886, caps. 5, 8 and 9.*]

42. For the first election of members to serve in the House of Commons the Governor-General shall cause writs to be issued by such person, in such form, and addressed to such Returning Officers as he thinks fit. Writs for first election.

The person issuing writs under this section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a vacancy in the representation in the House of Commons of any Electoral District happens before the meeting of the Parliament, or after the meeting of the Parliament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant District. As to vacancies before meeting of Parliament or before provision is made by Parliament in this behalf.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker. As to election of Speaker of House of Commons.

45. In case of a vacancy happening in the office of Speaker by death, resignation or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker. As to filling up vacancy in office of Speaker.

46. The Speaker shall preside at all meetings of the House of Commons. Speaker to preside.

47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges, and duties of Speaker. Provision in case of absence of Speaker.

48. The presence of at least twenty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers, and for that purpose the Speaker shall be reckoned as a member. Quorum of House of Commons.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker and when the voices are equal, but not otherwise, the Speaker shall have a vote. Voting in House of Commons.

Duration of
House of Com-
mons.

50. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

Decennial Re-
adjustment of
Representa-
tion.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be re-adjusted by such authority, in such manner and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:—

1. Quebec shall have the fixed number of sixty-five members.
2. There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec (so ascertained).
3. In the computation of the number of members for a Province a fractional part not exceeding one-half of the whole number requisite for entitling the Province to a member shall be disregarded; but a fractional part exceeding one-half of that number shall be equivalent to the whole number.
4. On any such re-adjustment the number of members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one-twentieth part or upwards.
5. Such re-adjustment shall not take effect until the termination of the then existing Parliament.

[See *Rev. Stat. C.*, 1886, c. 6.]

Increase of
number of
House of Com-
mons.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes ; Royal Assent.

Appropriation
and tax bills.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

Recommendation
of money
votes.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the

appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor-General in the Session in which such vote, resolution, address, or bill is proposed.

55. Where a bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's assent, he shall declare according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure. Royal assent to bills, etc.

56. Where the Governor General assents to a bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of her Majesty's Principal Secretaries of State; and if the Queen in Council within two years after the receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor General, by speech or message to each of the Houses of the Parliament, or by proclamation, shall annul the Act from and after the day of such signification. Disallowance by order in Council of Act assented to by Governor General.

57. A bill reserved for the signification of the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor General for the Queen's assent, the Governor General signifies, by speech or message to each of the Houses of the Parliament or by proclamation, that it has received the assent of the Queen in Council. Signification of Queen's pleasure on bill reserved.

An entry of every such speech, message, or proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the Records of Canada.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each Province there shall be an officer, styled the Lieutenant Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada. Appointment of Lieutenant Governors of Provinces.

59. A Lieutenant Governor shall hold office during the pleasure of the Governor General; but any Lieutenant Governor appointed after the commencement of the first Session of the Parliament of Canada shall not be removable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after Tenure of office of Lieutenant Governor.

the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not then within one week after the commencement of the next Session of the Parliament.

Salaries of
Lieutenant
Governors.

60. The salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada.

Oaths, etc. of
Lieutenant
Governor.

61. Every Lieutenant Governor shall, before assuming the duties of his office, make and subscribe before the Governor General or some person authorized by him, oaths of allegiance and office similar to those taken by the Governor General.

Application of
provisions re-
ferring to
Lieutenant
Governor.

62. The provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the time being of each Province or other the chief executive officer or administrator for the time being carrying on the government of the Province, by whatever title he is designated.

Appointment
of executive
officers for On-
tario and Que-
bec.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant Governor from time to time thinks fit, and in the first instance of the following officers, namely:—The Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec, the Speaker of the Legislative Council and the Solicitor General.

[See now as to Ontario *Rev. Stat. Ont.*, 1887, c. 13.]

Executive
Government
of Nova Scotia
and New
Brunswick.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

All powers
under Acts
to be exercised
by Lieutenant
Governor of
Ontario or
Quebec with
advice of
Executive
Council or
alone.

65. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof,

or by the Lieutenant Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the advice of the Executive Council thereof.

Application of provisions referring to Lieutenant-Governor in Council.

67. The Governor General in Council may from time to time appoint an administrator to execute the office and functions of Lieutenant Governor during his absence, illness, or other inability.

Administration in absence etc. of Lieutenant Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Seats of Provincial Governments.

Legislative Power.

1.—ONTARIO.

69. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of one House, styled the Legislative Assembly of Ontario.

Legislature for Ontario.

70. The Legislative Assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two Electoral Districts set forth in the first Schedule to this Act.

Electoral districts.

[*The number of members is now 90. See Rev. Stat. Ont., 1887, c. 7.*]

2.—QUEBEC.

71. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Legislature for Quebec.

72. The Legislative Council of Quebec shall be composed of twenty-four members, to be appointed by the Lieutenant Governor in the Queen's name, by instrument under the Great Seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this Act

Constitution of Legislative Council.

referred to, and each holding office for the term of his life, unless the Legislature of Quebec otherwise provides under the provisions of this Act.

Qualification of Legislative Councillors. **73.** The qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

Resignation, Disqualification, etc. **74.** The place of a Legislative Councillor of Quebec shall become vacant in the cases *mutatis mutandis*, in which the place of Senator becomes vacant.

Vacancies. **75.** When a vacancy happens in the Legislative Council of Quebec, by resignation, death, or otherwise, the Lieutenant-Governor, in the Queen's name by instrument under the Great Seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

Questions as to Vacancies, etc. **76.** If any question arises respecting the qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Speaker of Legislative Council. **77.** The Lieutenant Governor may from time to time, by instrument under the Great Seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum of Legislative Council. **78.** Until the Legislature of Quebec otherwise provides, the presence of at least ten members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting in Legislative Council. **79.** Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Constitution of Legislative Assembly of Quebec. **80.** The Legislative Assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for assent any bill for altering the limits of any of the Electoral Divisions or Districts mentioned in the second Schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those Electoral Divisions or Districts, and the assent shall not be given to such bills unless an address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC.

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the Union. First Session of Legislatures.

82. The Lieutenant Governor of Ontario and of Quebec shall from time to time, in the Queen's name, by instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province. Summoning of Legislative Assemblies.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission, or employment permanent or temporary, at the nomination of the Lieutenant Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and, in Quebec, Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office. Restriction on election of holders of offices.

[Acts have since been passed with the view of further securing the independence of the Legislative Assembly of Ontario. See Rev. Stat. Ont., 1887, c. 11, ss. 6 to 14.]

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the Union are in force in those Provinces respectively, relative to the following matters, or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to elections of members to serve in the respective Legislative Assemblies of Ontario and Quebec. Continuance of existing election laws.

[See now as to Ontario Rev. Stat. Ont., 1887, caps. 9 and 10.]

Provided that until the Legislature of Ontario otherwise provides, at any election for a member of the Legislative

Assembly of Ontario for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

[See now *Rev. Stat. Ont.*, 1887, c. 9, s. 7.]

Duration of
Legislative
Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

[See also *Rev. Stat. Ont.*, 1887, c. 11, s. 3.]

Yearly Ses-
sions of Legis-
lature.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one session and its first sitting in the next session.

[See *Rev. Stat. Ont.*, 1887, c. 11, s. 4.]

Speaker,
Quorum, etc.

87. The following provisions of this Act respecting the House of Commons of Canada, shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

[See sections 44, 45, 46, 47, 48 and 49 of this Act, and *Rev. Stat., Ont.*, 1887, c. 11, ss. 29, 30, 32, 56 and 57.]

4.—NOVA SCOTIA AND NEW BRUNSWICK.

Constitutions
of Legislatures
of Nova Scotia
and New
Brunswick.

88. The constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First elections

89. Each of the Lieutenant Governors of Ontario, Quebec, and Nova Scotia shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and address to such Returning Officer as the Governor

General directs, and so that the first election of member of Assembly for any Electoral District or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of Canada for that Electoral District.

6.—THE FOUR PROVINCES.

90. The following provisions of this Act respecting the Parliament of Canada, namely,—the provisions relating to appropriation and tax bills, the recommendation of money votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant Governor of the Province for the Governor-General, of the Governor General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada.

Application to
Legislatures of
provisions
respecting
money votes
etc.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

Legislative
authority of
Parliament of
Canada.

1. The Public Debt and Property.
2. The regulation of Trade and Commerce.
3. The raising of money by any mode or system of Taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The Census and Statistics.
7. Militia, Military and Naval Service and Defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the establishment and maintenance of Marine Hospitals.
12. Sea coast and inland Fisheries.
13. Ferries between a Province and any British or Foreign country or between two Provinces.
14. Currency and Coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings' Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and Insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

Subjects of
exclusive Pro-
vincial Legis-
lation.

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant Governor.
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.
4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
5. The management and sale of the Public Lands belonging to the Province and of the timber and wood thereon.
6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer, and other licences in order to the raising of a revenue for Provincial, local, or municipal purposes.
10. Local works and undertakings other than such as are of the following classes,—
 - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province :
 - b. Lines of steam ships between the Province and any British or foreign country :
 - c. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.
11. The incorporation of companies with Provincial objects.
12. The solemnization of marriage in the Province.
13. Property and civil rights in the Province.

14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts.
15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
16. Generally all matters of a merely local or private nature in the Province.

Education.

Legislation
respecting
education.

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union.
2. All the powers, privileges, and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.
3. Where in any Province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.
4. In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces; and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Legislation for uniformity of laws in the three Provinces as to property and civil rights and uniformity of procedure in Courts.

Agriculture and Immigration.

95. In each Province the Legislature may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Concurrent powers of Legislation respecting Agriculture and immigration.

VII.—JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Appointment of Judges.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Ontario, etc.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Selection of Judges in Quebec.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Tenure of office of Judges of Superior Courts.

100. The salaries, allowances and pensions of the Judges of the Superior, District, and County Courts (except the Courts

Salaries, etc., of Judges.

of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

General Court
of Appeal,
etc.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a general Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the Laws of Canada.

VIII.—REVENUES: DEBTS; ASSETS; TAXATION.

Creation of
Consolidated
Revenue
Fund.

102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

Expenses of
collection, etc.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of
Provincial
public debts.

104. The annual interest of the public debts of the several Provinces of Canada, Nova Scotia and New Brunswick at the Union shall form the second charge on the Consolidated Revenue Fund of Canada.

Salary of
Governor-
General.

105. Unless altered by the Parliament of Canada, the salary of the Governor General shall be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

Appropriation
of fund subject
to charges.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the public service.

Transfer to
Canada of
stocks, etc.,
belonging to
two Provinces.

107. All stocks, cash, banker's balances, and securities for money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the Union.

108. The public works and property of each Province, enumerated in the third schedule to this Act, shall be the property of Canada. Transfer of property in schedule.

109. All lands, mines, minerals, and royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same. Lands, mines, etc., belonging to Provinces to belong to them.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province. Assets connected with Provincial debts.

111. Canada shall be liable for the debts and liabilities of each Province existing at the Union. Canada to be liable for Provincial debts.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the Union \$62,500,000, and shall be charged with interest at the rate of five per centum per annum thereon. Liability of Ontario and Quebec to Canada.

113. The assets enumerated in the fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the property of Ontario and Quebec conjointly. Assets of Ontario and Quebec.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union \$8,000,000, and shall be charged with interest at the rate of five per centum per annum thereon. Liability of Nova Scotia to Canada.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union \$7,000,000, and shall be charged with interest at the rate of five per centum per annum thereon. Liability of New Brunswick to Canada.

116. In case the public debt of Nova Scotia and New Brunswick do not at the Union amount to \$8,000,000 and \$7,000,000 respectively, they shall respectively receive by half-yearly payments in advance from the Government of Canada interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts. Payment of interest to Nova Scotia and New Brunswick if their public debts are less than the stipulated amounts.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country. Provincial public property.

Grants to
Provinces.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures :—

	Dollars.
Ontario - - - - -	Eighty thousand.
Quebec - - - - -	Seventy thousand.
Nova Scotia - - - - -	Sixty thousand.
New Brunswick - - - - -	Fifty thousand.

Two hundred and sixty thousand.

and an annual grant in aid of each Province shall be made, equal to eighty cents per head of the population as ascertained by the Census of 1861, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such grants, as against any Province, all sums chargeable as interest on the Public Debt of that Province in excess of the several amounts stipulated in this Act.

Further grant
to New
Brunswick
for ten years.

119. New Brunswick shall receive by half-yearly payments in advance from Canada, for the period of ten years from the Union an additional allowance of \$63,000 per annum; but as long as the Public Debt of that Province remains under \$7,000,000, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of \$63,000.

Form of
payments.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova Scotia and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor General in Council.

Manufac-
tures, etc., of
one Province
to be admitted
free into the
others.

121. All articles of the growth, produce, or manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance
of Customs-
and Excise
Laws.

122. The Customs and Excise Laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of Canada.

Exportation
and impor-
tation as
between two
Provinces.

123. Where Customs duties are, at the Union, leviable on any goods, wares, or merchandises in any two Provinces, those goods, wares and merchandises may, from and after the Union, be imported from one of those Provinces into the other of

them on proof of payment of the Customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs duty as is leviable thereon in the Province of importation.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in chapter fifteen. of title three, of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than New Brunswick shall not be subjected to such dues. Lumber dues in New Brunswick

125. No lands or property belonging to Canada or any Province shall be liable to taxation. Exemption of public lands, etc., from taxation.

126. Such portions of the duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the Union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one Consolidated Revenue Fund to be appropriated for the public service of the Province. Provincial Consolidated Revenue Funds.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand, addressed to the Governor General of the Province of Canada, or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate, shall thereby vacate his seat in such Legislative Council. As to Legislative Councilors of Provinces becoming Senators.

128. Every member of the Senate or House of Commons of Canada shall before taking his seat therein take and subscribe before the Governor General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein, take and subscribe before the Lieutenant Governor of the Province or some person authorized by him, the oath of allegiance contained in the fifth Schedule to this Act; and every member of the Senate of Canada and every member of the Legislative Oath of allegiance, etc.

Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor General or some person authorized by him, the declaration of qualification contained in the same Schedule.

Continuance
of existing
laws, courts,
officers, etc.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia or New Brunswick at the Union, and all Courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

Transfer of
officers to
Canada.

130. Until the Parliament of Canada otherwise provides, all officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties as if the Union had not been made.

Appointment
of new officers.

131. Until the Parliament of Canada otherwise provides, the Governor General in Council may from time to time appoint such officers as the Governor General in Council deems necessary or proper for the effectual execution of this Act.

Power for per-
formance of
treaty obliga-
tions by
Canada as part
of British
Empire.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

Use of English
and French
languages.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the houses of the Legislature of Quebec; and both those languages shall be used in the respective records and journals of those houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following officers, to hold office during pleasure, that is to say :— the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of Quebec the Solicitor General; and may, by order of the Lieutenant Governor in Council, from time to time prescribe the duties of those officers and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof; and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

Appointment
of executive
officers for
Ontario and
Quebec.

135. Until the Legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any law, statute or ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the law of the Province of Canada, as well as those of the Commissioner of Public Works.

Powers,
duties, etc., of
executive
officers.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

Great Seal.

137. The words "and from thence to the end of the then next ensuing Session of the Legislature," or words to the same effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada, if the subject matter of the Act is within the powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively, if the subject matter of the Act is within the powers of the same as defined by this Act.

Construction
of temporary
Acts.

As to errors in names.

138. From and after the Union, the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

As to issue of Proclamations before Union, to commence after Union.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed shall be and continue of like force and effect as if the Union had not been made.

As to issue of Proclamations after Union, under authority of Acts before Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its subject matter requires, under the Great Seal thereof; and from and after the issue of such Proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.

Arbitration respecting debts, etc.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

Division of records.

143. The Governor General in Council may from time to time order that such and so many of the records, books, and documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall henceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof shall be admitted as evidence.

Constitution of townships in Quebec.

144. The Lieutenant Governor of Quebec may from time to time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of Quebec in which town-

ships are not then already constituted, and fix the metes and bounds thereof.

X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement within six months after the Union, of a railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

Duty of Government and Parliament of Canada to make railway herein described.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such terms and conditions in each case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to admit Newfoundland, Prince Edward Island, British Columbia, Rupert's Land and North-Western Territory into the Union by Order in Council.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of four members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of Senators shall be seventy-six and their maximum number shall be eighty-two: but Prince Edward Island when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

As to representation of Newfoundland and Prince Edward Island in Senate.

SCHEDULE.

The FIRST SCHEDULE.

Electoral Districts of Ontario.

[The division of Ontario into Electoral Districts has been altered by subsequent Dominion and Provincial legislation. See *Rev. Stat. C.*, 1886, c. 6 for representation in the House of Commons; and *Rev. Stat. Ont.*, 1887, c. 7, for representation in the Legislative Assembly of the Province.]

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES.

- | | |
|--------------|-------------------|
| 1. Prescott. | 6. Carleton. |
| 2. Glengary. | 7. Prince Edward. |
| 3. Stormont. | 8. Halton. |
| 4. Dundas. | 9. Essex. |
| 5. Russell. | |

RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan).
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES AND TOWNS.

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

B.

NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of ALGOMA.

The County of BRUCE, divided into two Ridings, to be called respectively the North and South Ridings :—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amabel, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of HURON, divided into two Ridings, to be called respectively the North and South Ridings :—

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Osborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings :—

49. The North Riding to consist of the Townships of McGillivray and Biddulph, (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.
50. The West Riding to consist of the Townships of Delaware, Caradoc, Metcalfe, Mosa, and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.
52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.
53. The County of BOTHWELL to consist of the Townships of Sombra, Dawn, and Euphemia, (taken from the County of Lambton), and the Townships of Zone, Camden, with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of GREY divided into two Ridings to be called respectively the South and North Ridings :—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH divided into two Ridings, to be called respectively the South and North Ridings :—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and St. Mary's.

The County of WELLINGTON divided into three Ridings to be called respectively North, South and Centre Ridings :—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.
59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol and Pilkington, and the Villages of Ferguson and Elora.
60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of NORFOLK, divided into two Ridings, to be called respectively the South and North Ridings :—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole, and Dunn.
64. The County of MONCK to consist of the Townships of Camborough and Moulton and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caistor and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).
65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catharines.
66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into two Ridings, to be called respectively the South and the North Ridings :—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.

70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into two Ridings, to be called respectively the South and North Ridings :—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Somerville and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the north of the said North Riding.

The County of PETERBOROUGH, divided into two Ridings, to be called respectively the West and East Ridings :—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the north of the said East Riding.

The County of HASTINGS, divided into three Ridings, to be called respectively the West, East, and North Ridings :—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.
78. The County of LENNOX to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town, and Amherst Island, and the Village of Napanee.
79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Eftingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.
80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of RENFREW, divided into two Ridings, to be called respectively the South and North Ridings :—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.

BRITISH NORTH AMERICA ACT, 1867.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Hagarty, Sierwood, Burns, and Richards, and any other surveyed Townships lying north-westerly of the said North Riding.

Every Town and incorporated Village existing at the Union, not specially mentioned in this Schedule, is to be taken as part of the County or Riding within which it is locally situate.

The SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond.
Argenteuil.	Shefford.	Megantic.
Huntingdon.	Stanstead.	
	Town of Sherbrooke.	

The THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general public purposes.

The FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.	
Lunatic Asylums.	
Normal School.	
Court Houses,	} Lower Canada.
in	
Aylmer.	} .
Montreal.	
Kanouraska.	

Law Society, Upper Canada.
 Montreal Turnpike Trust.
 University Permanent Fund.
 Royal Institution.
 Consolidated Municipal Loan Fund, Upper Canada.
 Consolidated Municipal Loan Fund, Lower Canada.
 Agricultural Society, Upper Canada.
 Lower Canada Legislative Grant.
 Quebec Fire Loan.
 Tamiscouata Advance Account.
 Quebec Turnpike Trust.
 Education—East.
 Building and Jury Fund, Lower Canada.
 Municipalities Fund.
 Lower Canada Superior Education Income Fund.

The FIFTH SCHEDULE.

OATH OF ALLEGIANCE.

I, *A.B.* do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

Note. —*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.*

DECLARATION OF QUALIFICATION.

I, *A.B.* do declare and testify, That I am by law duly qualified to be appointed a member of the Senate of Canada [*or as the case may be*], and that I am legally or equitably seised as of freehold for my own use and benefit of lands or tenements held in free and common socage [*or seised or possessed for my own use and benefit of lands or tenements held in franc-alieu or in roture (as the case may be),*] in the Province of Nova Scotia [*or as the case may be*] of the value of four thousand dollars over and above all rents, dues, debts, mortgages, charges, and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a member of the Senate of Canada [*or as the case may be*], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.



50 VICTORIA.

CHAPTER 2.

An Act respecting the Revised Statutes of Ontario,
1887.

[Assented to 23rd April, 1887.]

WHEREAS it has been found expedient to revise, classify, Preamble.
and consolidate the Public General Statutes, which apply to the Province of Ontario and are within the legislative authority of the Legislature of Ontario; and whereas such revision, classification, and consolidation, have been made accordingly; and whereas it is expedient to provide for the incorporation therewith of the Public General Statutes, passed during the present session, and for giving the force of law to the body of revised statutes to result from such incorporation:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The printed roll, attested as that of the said statutes revised, classified, and consolidated as aforesaid, under the signature of His Honour the Lieutenant Governor, and that of the Clerk of the Legislative Assembly, and deposited in the office of the Clerk of the Legislative Assembly, shall be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as to be repealed in the schedule A thereto annexed; but the marginal notes thereon, and the headings in the body of the Act, and the references to former enactments at the foot of the several sections thereof, and the sections printed in bourgeois type form no part of the said statutes, and shall be held to have been inserted for convenience of reference only, and may be omitted or corrected, and any misprint or error, whether of commission or omission, or any contradiction or ambiguity in the said roll may also be corrected.

Original Roll
of Statutes
revised, etc.,
to be certified
and deposited.

As to mar-
ginal notes,
misprints, etc

but without changing the legal effect, and such alterations in the language of said statutes as are requisite, in order to preserve a uniform mode of expression, and do not alter the legal effect may be made, and any of the enacting clauses in said statutes may be printed in bourgeois type, and any of the sections in bourgeois type may be printed among the enacting clauses where proper—in the roll hereinafter mentioned.

2. The Lieutenant Governor may select such Acts and parts of Acts, passed during the present Session, as he may deem it advisable to incorporate with the said statutes contained in the said first mentioned roll, and may cause them to be so incorporated therewith, adapting their form and language to those of the said statutes (but without changing their effect), inserting them in their proper places in the said statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the present Session so incorporated as aforesaid.

Lieutenant-Governor may cause the legislation of the present session to be incorporated in the said Roll.

3. So soon as the said incorporation of such Acts, and parts of Acts, with the said statutes, and the said addition to the said Schedule A has been completed, the Lieutenant Governor may cause a correct printed roll thereof, attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Assembly, which roll shall be held to be the original thereof, and to embody the several Acts, and parts of Acts, mentioned as repealed in the amended Schedule A thereto annexed; any marginal notes, however, and headings in the body of the Act and references to former enactments, and sections printed in bourgeois type which may appear thereon, being held to form no part of the said statutes, but to be inserted for convenience of reference only.

Certified Roll including the legislation of the present session to be deposited and serve as the original thereof.

4. The Lieutenant Governor in Council, after such deposit of the said last mentioned roll, may by proclamation declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Revised Statutes of Ontario, 1887."

Proclamation for bringing the Revised Statutes into force.

5. On, from and after such day, the same shall accordingly come into force and effect as and by the designation of "The Revised Statutes of Ontario," to all intents as though the same were expressly embodied in and enacted by this Act, to come into force and have effect on, from and after such day; and on from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned, so far as they relate to this Province, shall stand and be repealed to the extent mentioned in the third column of said Schedule A save only as hereinafter is provided.

On and after day named in Proclamation Statutes to be in force and the enactments embodied in them repealed.

Exception.

Repeal not to extend to Acts over which the Dominion Parliament has jurisdiction.

6. Such repeal shall not be construed as intended to extend to such of the provisions of said Acts and parts of Acts as relate to subjects in regard to which the Parliament of Canada has exclusive powers of legislation ; but the said Acts and parts of Acts (in so far only as is necessary to give effect to every such provision) shall remain in full force and effect, subject however, to section 9 of this Act.

Saving as to transactions, etc., anterior to the repeal.

7. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them ; nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts or the application of any of the said Acts or parts of Acts or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Certain matters anterior to the repeal not to be affected by it. Penalties, etc.

8.—(1) The repeal of the said Acts and parts of Acts shall not affect—

(a.) Any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal,—

Actions, etc.

(b.) Nor any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal,—

Acts, deeds, rights, etc.

(c.) Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, regulation, contract, lien, charge, matter or thing, had, done, made, acquired, established or existing at the time of such repeal,—

Offices, etc.

(d.) Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto, at the time of such repeal,—

Marriages, etc.

(e.) Nor any marriage, certificate or registry thereof, lawfully had, made, granted or existing before or at the time of such repeal,—

And other matters, etc.

(f.) Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal ;

But the same shall remain valid, etc.,

(2) But every such

Penalty, forfeiture and liability, and every such

Action, suit, judgment, decree, certificate, execution, prosecution, order, rule, proceeding, matter or thing, and every such

Act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, regulation, contract, lien, charge, matter or thing, and every such

Office, appointment, commission, salary, allowance, security, and duty, and every such

Marriage, certificate and registry thereof, and every such other matter and thing, and the force and effect thereof, respectively,

may and shall, remain and continue as if no such repeal had taken place, and so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Revised Statutes and other the statutes and laws having force in this Province, so far as applicable thereto, and subject to the provisions of the said several statutes and laws.

9.—(1) The said Revised Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Revised Statutes are substituted, and the Legislature is not to be deemed to have adopted the construction which may by judicial decision, or otherwise, have been placed upon the language of any of the statutes included amongst the said Revised Statutes.

(2) The various provisions in the Revised Statutes corresponding to and substituted for the provisions of the Acts and parts of Acts so repealed, shall, where they are the same in effect as those of the Acts and parts of Acts so repealed, be held to operate retrospectively as well as prospectively, and to have been passed upon the days respectively upon which the Acts and parts of Acts so repealed came into effect.

(3) If upon any point the provisions of the said Revised Statutes are not in effect the same as those of the repealed Acts and parts of Acts for which they are substituted, then as respects all transactions, matters and things, subsequent to the time when the said Revised Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

10. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall, after the Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Revised Statutes having the same effect as such repealed Act or enactment.

As to effect of
insertion of an
Act in sche-
dule A.

11. The insertion of any Act in the said schedule A shall not be construed as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Revised Statutes.

Copies printed
by Queen's
Printer to be
evidence.

12. Copies of the said Revised Statutes, printed by the Queen's Printer from the amended roll so deposited, shall be received as evidence of the said Revised Statutes in all Courts and places whatsoever.

As to distribu-
tion of copies.

13. The laws relating to the distribution of the printed copies of the Statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Lieutenant-Governor in Council may direct.

This Act to be
printed with
Revised
Statutes.

14. This Act shall be printed with the said Revised Statutes, and shall be subject to the same rules of construction as the said Revised Statutes.

How they may
be cited.

15. Any chapter of the said Revised Statutes may be cited and referred to in any Act or proceeding whatever, either by its title as an Act, or by its short title, or by using the expression "The Revised Statute respecting—" (adding the remainder of the title given at the beginning of the particular chapter), or by using the expression "The Revised Statutes of Ontario 1887, chapter " (adding the number of the particular chapter in the copies printed by the Queen's Printer).



[L.S.] A. CAMPBELL.

CANADA.
PROVINCE OF ONTARIO.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain
and Ireland, QUEEN, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come—GREETING :

PROCLAMATION.

O. MOWAT, } **W**HEREAS in and by a certain Act of the Legis-
Attorney-General. } tature of Our Province of Ontario, passed in
the Session thereof, held in the fiftieth year of Our Reign, and
entitled, "An Act respecting the Revised Statutes of Ontario, 1887,"
it was amongst other things in effect enacted that the printed Roll
attested as that of the Public General Statutes which apply to the said
Province of Ontario and are within the legislative authority of the said
Legislature of Ontario, revised, classified and consolidated, under the signa-
ture of the Lieutenant Governor of Our said Province, and that of the Clerk
of the Legislative Assembly, and deposited in the office of the said Clerk of
the Legislative Assembly, should be held to be the original thereof, and
to embody the several Acts and parts of Acts mentioned as to be repealed
in the Schedule A thereto annexed ; but that the marginal notes thereon
and the headings in the body of the Act, and the references to former
enactments at the foot of the several sections thereof, and the sections
printed in bourgeois type, should form no part of the said Statutes, and
should be held to have been inserted for convenience of reference only,
and might be omitted or corrected, and that any misprint or error, whether
of commission or omission, or any contradiction or ambiguity in the said
Roll might also be corrected, but without changing the legal effect ; and
that such alterations in the language of said Statutes as should be
requisite in order to preserve a uniform mode of expression, and would not
alter the legal effect might be made, and that any of the enacting clauses
in said Statutes might be printed in bourgeois type, and that any
of the sections in bourgeois type might be printed among the
enacting clauses where proper—in the Roll thereafter mentioned ;

That Our said Lieutenant-Governor might select such Acts and parts of
Acts passed during the said Session, as he might deem it advisable to
incorporate with the said Statutes contained in the said first mentioned
Roll, and might cause them to be so incorporated therewith, adapting
their form and language to those of the said Statutes (but without chang-

ing their effect), inserting them in their proper places in the said Statutes, striking out of the latter any enactments repealed by or inconsistent with those so incorporated, altering the numbering of the chapters and sections, if need be, and adding to the said Schedule A a list of the Acts and parts of Acts of the said Session so incorporated, as aforesaid;

That so soon as the said incorporation of such Acts and parts of Acts with the said Statutes, and the said addition to the said Schedule A should be completed, Our said Lieutenant-Governor might cause a correct printed Roll thereof, attested under his signature and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the said Legislative Assembly, which Roll should be held to be the original thereof, and to embody the several Acts and parts of Acts mentioned as repealed in the amended Schedule A thereto annexed; any marginal notes, however, and headings in the body of the Act and references to former enactments, and sections printed in bourgeois type, which might appear thereon, being held to form no part of the said Statutes but to be inserted for convenience of reference only;

That Our said Lieutenant-Governor-in-Council, after such deposit of the said last mentioned Roll, might by Proclamation declare the day on, from and after which the same should come into force and have effect as law, by the designation of "The Revised Statutes of Ontario, 1887;" and that on, from and after such day, the same should accordingly come into force and effect as and by the designation of "The Revised Statutes of Ontario, 1887," to all intents as though the same were expressly embodied in and enacted by said Act, to come into force and have effect on, from and after such day; and that on, from and after the same day, all the enactments in the several Acts and parts of Acts in such amended Schedule A mentioned, so far as they relate to Our said Province, should stand and be repealed to the extent mentioned in the third column of said Schedule A, save only as thereafter provided;

AND WHEREAS Our said Lieutenant-Governor has selected such Acts and parts of Acts passed during the Session of the said Legislature of Our said Province, now last past, as he has deemed it advisable to incorporate with the Statutes contained in the said printed Roll, and has caused them to be so incorporated therewith, adapting their form and language to those of the said Statutes, (but without changing their effect,) and has caused them to be inserted in their proper places in the said Statutes, striking out of the latter such enactments as are repealed by, or are inconsistent with those so incorporated, and has caused the numbering of the chapters and sections to be altered, as was necessary, and has caused to be added to the said Schedule A a list of the Acts and parts of Acts of the said Session so incorporated as aforesaid;

AND WHEREAS so soon as the said incorporation of such Acts and parts of Acts with the said Statutes and the said addition to the said Schedule A were completed, Our said Lieutenant-Governor caused a correct printed Roll thereof, attested under his signature, and countersigned by the Provincial Secretary, to be deposited in the office of the Clerk of the Legislative Assembly;

AND WHEREAS the provisions contained in the first three sections of the said Act have been duly carried into effect;

AND WHEREAS Our said Lieutenant-Governor, after such deposit of the said last mentioned Roll, by and with the advice and consent of the Executive Council of Our said Province has named the THIRTY-FIRST day of DECEMBER instant as the day on, from and after which the same shall come into force and have effect as law by the designation of "The Revised Statutes of Ontario, 1887;"

NOW KNOW YE, that by and with the advice of Our Executive Council of Our said Province of Ontario, WE DO by this Our Royal Proclamation, DECLARE that on, from and after the said THIRTY-FIRST day of the month of DECEMBER instant, the said last mentioned Roll attested under the signature of Our said Lieutenant Governor of Our Province of Ontario, countersigned by the Provincial Secretary and deposited in the office of the Clerk of the Legislative Assembly of the said Province as aforesaid, shall come into force and have effect as law by the designation of "THE REVISED STATUTES OF ONTARIO, 1887," to all intents as though the same were expressly embodied in and enacted by the said Act.

Of all which premises all Our loving subjects of Our said Province, and all others whom these presents may concern, are hereby required to take notice, and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province of Ontario to be hereunto affixed: WITNESS, The Honourable SIR ALEXANDER CAMPBELL, Knight Commander of Our Most Distinguished Order of St. Michael and St. George, Member of our Privy Council for Canada, &c., &c., &c., LIEUTENANT-GOVERNOR of Our Province of Ontario, at Our Government House, in Our CITY OF TORONTO, in Our said Province, this TWENTIETH day of DECEMBER, in the year of Our Lord one thousand eight hundred and eighty-seven, and in the Fifty-first year of Our Reign.

By Command,
ARTHUR S. HARDY,
Provincial Secretary.

REVISED STATUTES OF ONTARIO.

SECTION I. PRELIMINARY.

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2.—PRINTING AND DISTRIBUTION OF THE STATUTES, p. 10.

CHAPTER 1.

An Act respecting the Form and Interpretation of
the Statutes.

SHORT TITLE, s. 1.	"holiday," s. 8 (16).
MODE OF CITING REVISED STATUTES, s. 2.	"oath," "sworn," s. 8 (18).
FORM OF STATUTES, ss. 3, 4.	"sureties," "security," s. 8 (20).
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LAW ALWAYS SPEAKING, s. 8 (1).	Expressing number or gender, s. 8 (24).
WORDS AND TERMS—	Constituting bodies corporate, s. 8 (25).
"shall" and "may," s. 8 (2).	Appointing or relating to public officers, s. 8 (26-28).
"herein," s. 8 (3).	COMPUTATION OF TIME, s. 8 (17).
"now" or "next," s. 8 (4).	WHO MAY ADMINISTER AND CERTIFY OATHS, s. 8 (18, 19).
"Her Majesty," "The Crown," &c., s. 8 (5).	IMPRISONMENT WHERE NO PLACE SPECIFIED, s. 8 (29).
"Lieut.-Governor," &c., s. 8 (6).	RECOVERY OF PENALTIES, s. 8 (30, 31).
"Lieut.-Governor in Council," s. 8 (7).	APPLICATION OF PENALTIES WHEN NOT OTHERWISE APPROPRIATED, s. 8 (30, 32).
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"Upper Canada," s. 8 (9).	ACTS TO BE DONE BY MORE THAN TWO MAY BE DONE BY A MAJORITY, s. 8 (34).
"Lower Canada," s. 8 (9).	
"proclamation," s. 8 (10 & 11).	
"Great Seal," s. 8 (10).	
"county," s. 8 (12).	
"person," s. 8 (13).	
"writing," "written," s. 8 (14).	
"month," "year," s. 8 (15).	

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POWER TO MAKE BY-LAWS, RULES,
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ALTER, s. 8 (36).

ALL ACTS TO BE DEEMED PUBLIC
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PREAMBLE TO BE PART OF AN ACT,
s. 8 (38).

ACTS TO BE DEEMED REMEDIAL, s. 8
(39).

AMENDMENT OF ACTS, s. 8 (40).

REPEAL OF ACTS —

Power to repeal s. 8 (40).

Not to revive repealed Acts, s. 8
(41).

Officers appointed, acts done or
penalties incurred under re-
pealed Act, s. 8 (42-44).

Rules, &c., made before repeal,
s. 8 (45).

Appointments, and securities
given before repeal, s. 8 (46).

ACTS NOT TO AFFECT THE CROWN UN-
LESS SO DECLARED, s. 8 (47).

OTHER RULES OF CONSTRUCTION AP-
PLICABLE, s. 8 (48).

INTERPRETATION OF ACTS RELATING
TO LEGAL MATTERS, s. 9.

INTERPRETATION OF ACTS RELATING
TO MUNICIPALITIES, s. 10.

INTERPRETATION OF THIS ACT, s. 11.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

Short title.

1. This Act may be cited as "*The Interpretation Act*," or
"*The Interpretation Act of Ontario*." R. S. O. 1877, c. 1, s. 1.

What to con-
stitute "The
Revised
Statutes of
Ontario."

2. This Act and following series of Acts shall constitute
and may be cited for all purposes as *The Revised Statutes of
Ontario, 1887*; and any chapter of the said Revised Statutes
may be cited and referred to for all purposes whatever, either
by its title as an Act, or by its short title, or by using the
expression "*The Act (or The Revised Statute) respecting—*"
(adding the remainder of the title given at the beginning
of the particular chapter), or by using the expression "*The
Revised Statutes, 1887*" or "*The Revised Statutes of Ontario,
1887*," together with a reference to the number of the particular
chapter in the copies printed by the Queen's Printer. R. S. O.
1877, c. 1, s. 2.

How they
may be cited.

Form of enact-
ing clause.

3. The following words may be inserted in the preambles of
statutes, and shall indicate the authority by virtue of which they
are passed : "Her Majesty, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario, enacts
as follows." R. S. O. 1877, c. 1, s. 3.

Clauses to fol-
low in concise
form.

4. After the insertion of the words aforesaid, which shall
follow the setting forth of the considerations or reasons upon
which the law is grounded, and which shall, with these consid-
erations or reasons, constitute the entire preamble, the various
clauses of the statute shall follow in a concise and enunciative
form. R. S. O. 1877, c. 1, s. 4.

Acts may be
amended or
repealed
during Session
in which
passed.

5. Any Act of the Legislature of Ontario may be amended,
altered or repealed by any Act to be passed in the same Session
thereof. R. S. O. 1877, c. 1, s. 5.

6. The Clerk of the Legislative Assembly shall endorse on every Act of the Legislature of Ontario, immediately after the title of such Act, the day, month and year when the same was by the Lieutenant-Governor assented to, or reserved; in the latter case, the Clerk of the Legislative Assembly shall also endorse thereon the day, month and year when the Lieutenant-Governor has signified either by speech or message to the Legislative Assembly, or by proclamation, that the same was laid before the Governor-General in Council, and that the Governor-General was pleased to assent to the same;

Endorsement
on Acts.

Such endorsement shall be taken to be a part of the Act; and the date of the assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. R. S. O. 1877, c. 1, s. 6.

7.—(1) This section and the following sections of this Act, and each provision thereof, shall extend and apply to these Revised Statutes of Ontario and to every Act of the Legislature of Ontario, passed after the said Revised Statutes take effect, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause, is inconsistent with the context, and except in so far as any provision thereof is in any such Act declared not applicable thereto;

The following
sections to
apply to all
Acts.

(2) The omission in any Act of a declaration that *The Interpretation Act* shall apply thereto, shall not be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session. R. S. O. 1877, c. 1, s. 7.

8. Subject to the limitations in the preceding section of this Act—in every Act to which this section applies,

How enact-
ments shall be
construed.

1. The Law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

Expressions in
present tense.

2. The word “shall” shall be construed as imperative and the word “may” as permissive;

“Shall” and
“may.”

3. Wherever the word “herein” is used in any section of an Act, it shall be understood to relate to the whole Act and not to that section only;

“Herein.”

4. The word “now” or “next” shall be construed as having reference to the time when the Act was presented for the Royal Assent;

“Now,” or
“next.”

5. The words “Her Majesty,” “the Queen,” or “the Crown,” shall mean Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland;

“Her Majes-
ty,” &c.

“Lieutenant-Governor,” or “Governor.” 6. The words “Lieutenant-Governor,” or “Governor,” shall mean the Lieutenant-Governor for the time being of Ontario, or other the Chief Executive Officer or Administrator for the time being carrying on the government of Ontario, by whatever title he is designated ;

“Lieutenant-Governor in Council,” &c. 7. The words “Lieutenant-Governor in Council,” or “Governor in Council,” shall mean the Lieutenant-Governor of Ontario, or person administering the government of Ontario for the time being, acting by and with the advice of the Executive Council for Ontario ;

“United Kingdom,” “United States.” 8. The words “the United Kingdom” shall mean the United Kingdom of Great Britain and Ireland ; and the words “the United States” shall mean the United States of America : and generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof ;

“Upper Canada,” “Lower Canada.” 9. The words “Upper Canada” shall mean all that part of Canada which formerly constituted the Province of Upper Canada ; and the words “Lower Canada” shall mean all that part of Canada which formerly constituted the Province of Lower Canada ;

“Proclamation,” “Great Seal.” 10. The word “proclamation” shall mean a proclamation under the Great Seal ; and the expression “Great Seal” shall mean the Great Seal of Ontario ;

Lieutenant-Governor acting by proclamation. 11. Where the Lieutenant-Governor is authorized to do any act by proclamation, such proclamation is to be understood to be a proclamation issued under an order of the Lieutenant-Governor in Council ; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order ;

“County.” 12. The word “County” shall include two or more Counties united for purposes to which the enactment relates ;

“Person.” 13. The word “person” shall include any body corporate or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to law ;

“Writing,” “Written.” 14. The words “writing,” “written,” or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied ;

“Month,” “Year.” 15. The word “month” shall mean a calendar month ; and the word “year,” a calendar year ; R. S. O. 1877, c. 1, s. 8 (1-15.)

“Holiday.” 16. The word “holiday” shall include Sundays, New Year’s Day, Good Friday, Easter Monday, and Christmas Day, Dominion Day, the days appointed for the celebration of the birth-day of Her Majesty and of Her Royal Successors, and

any day appointed by proclamation of the Governor-General or Lieutenant-Governor as a public holiday or for a General Fast or Thanksgiving; R. S. O. 1877, c. 1, s. 8 (16); 50 V. c. 7, s. 2 (1).

17. If the time limited by an Act for any proceeding, or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on, the day next following which is not a holiday; 50 V. c. 7, s. 2.

Computation of time where time limited expires on a holiday.

18. The word "oath" shall be construed as meaning a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made instead of an oath, and in like cases the word "sworn" shall include the word "affirmed":

"Oath."
"Sworn,"
"Affirmed."

And in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made. R. S. O. 1877, c. 1, s. 8 (17).

19. Where by an Act of the Legislature of this Province, or by a rule of the Legislative Assembly, or by an order, regulation or commission made or issued by the Lieutenant-Governor in Council, under a law authorizing him to require the taking of evidence under oath, an oath is authorized or directed to be made, taken or administered, the oath may be administered, and a certificate of its having been made, taken or administered may be given, by any one named in the Act, rule, order, regulation or commission, or by a Judge of any Court, a notary public, justice of the peace, or commissioner for taking affidavits, having authority or jurisdiction in the place where the oath is administered; 50 V. c. 7, s. 2.

Administration of oaths.
Certificate of administration of oaths.

20. The word "sureties" shall mean sufficient sureties, and the word "security" shall mean sufficient security, and where these words are used, one person shall be sufficient therefor unless otherwise expressly required; R. S. O. 1877, c. 1, s. 8 (18).

"Sureties,"
"Security."

21. The word "Registrar" shall mean and include indifferently Registrars and their Deputies;

"Registrar."

22. The word "Magistrate" shall mean a Justice of the Peace; the words "two Justices" shall mean two or more Justices of the Peace, assembled or acting together; the words "Justice of the Peace" or "Magistrate" shall include two or more Justices of the Peace or Magistrates assembled or acting together;

"Magistrate,"
"Two Justices."

If anything is directed to be done by or before a Magistrate or a Justice of the Peace, or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done;

"Justice of the Peace," or
"Magistrate,"
to include two or more acting together.

Implied
powers.

Wherever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer, or functionary to do or enforce the doing of such act or thing; R.S.O. 1877, c. 1, s. 8 (21, 22).

"Legally
qualified medi-
cal practi-
tioner," "duly
qualified medi-
cal practi-
tioner."

23. The words "legally qualified medical practitioner" or "duly qualified medical practitioner," or any other words importing legal recognition of any person as a medical practitioner or member of the medical profession, when used in any Act or law shall, in so far as such Act or law applies to this Province, be construed to mean a person registered under *The Ontario Medical Act*; R.S.O. 1877, c. 142, s. 53.

Number and
gender.

24. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse;

Words consti-
tuting a cor-
poration to
vest certain
powers in it.

25. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them;

Words autho-
rizing appoint-
ment include
power to
remove.

26. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him, or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested;

Directions to
public officer
to apply to his
successors and
his deputy.

27. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, shall include his successors in such office, and his or their lawful deputy;

Appointments
by Lieutenant-
Governor to be
during plea-
sure.

28. All officers now appointed or hereafter to be appointed by the Lieutenant-Governor, whether by commission or otherwise, shall remain in office during pleasure only;

Imprisonment
where no spe-
cial place is
mentioned.

29. If in any Act any person is directed to be imprisoned or committed to prison, the imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the Common Gaol of the locality in which the order for the imprisonment is made, or if there be no Common Gaol there, then in or to that Common Gaol which is nearest to such

locality ; and the keeper of any Common Gaol shall receive the person, and him safely keep and detain in the Common Gaol under his custody until discharged in due course of law, or bailed in cases in which bail may by law be taken ;

30. Where a pecuniary penalty or a forfeiture is imposed for a contravention of any Act,—then, if no other mode is prescribed for the recovery thereof, the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of a private party suing as well for the Crown as for himself, in any form allowed in such case by the law of this Province, before a Court having jurisdiction to the amount of the penalty in cases of simple contract, upon the evidence of one credible witness other than the plaintiff or party interested ;

Recovery of penalties when no special mode is prescribed.

If no other provision is made for the appropriation of the penalty or forfeiture, one-half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown ;

Appropriation

31. Where a pecuniary penalty or forfeiture is imposed by an Act of this Province, and the amount of the penalty or forfeiture is in any respect in the discretion of the Court or Judge, or in case the Court or Judge has the right to impose imprisonment in addition, or in lieu of the penalty or forfeiture, and no other mode is by the Act expressly prescribed for the recovery of the penalty or forfeiture, the same may be recovered upon indictment in the High Court of Justice or General Sessions of the Peace ;

Cases where pecuniary penalty imposed by statute may be recovered on indictment.

32. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any Act given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly.

Application of penalties, etc., when not otherwise appropriated.

33. If any sum of the public money is by an Act appropriated for any purpose, or directed to be paid by the Lieutenant-Governor,—then, if no other provision is made respecting it, such sum shall be payable under warrant of the Lieutenant-Governor directed to the Treasurer of the Province, out of the Consolidated Revenue Fund ; and all persons entrusted with the expenditure of any such sum, or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such officer, as the Lieutenant-Governor may direct ;

Paying over and accounting for public moneys.

34. Where an act or thing is required to be done by more than two persons, a majority of them may do it ;

Acts to be done by more than two.

35. Where forms are prescribed, slight deviations therefrom not affecting the substance or calculated to mislead, shall not vitiate them ;

Deviation from forms.

Power to make by-laws, &c., to confer power to alter. 36. Where power to make by-laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same and make others ;

All Acts to be deemed public Acts. 37. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be judicially noticed by all Judges, Justices of the Peace, and others, without being specially pleaded ;

Proof of Acts. All copies of Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts, and of their contents ; and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary is shewn ;

Preamble to be a part of Act. 38. The Preamble of an Act shall be deemed a part thereof intended to assist in explaining the purport and object of the Act ;

All Acts remedial. 39. Every Act and every provision or enactment thereof shall be deemed remedial, whether its immediate purport be to direct the doing of anything which the Legislature deems to be for the public good, or to prevent or punish the doing of anything which it deems to be contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act, and of the provision or enactment, according to the true intent, meaning and spirit thereof ;

Reservation of power to repeal or amend. 40. Every Act shall be construed as reserving to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever the repeal, amendment, revocation, restriction, or modification is deemed by the Legislature to be required for the public good ;

Repeal of an Act not to revive an Act by it repealed. 41. The repeal of any Act or part of an Act shall not revive any Act or provision of law repealed by such Act or part of an Act, or prevent the effect of any saving clause therein ;

Effect of repeal of Act on persons acting under it. 42. Where any Act is repealed, wholly or in part, and other provisions are substituted, all officers, persons, bodies politic or corporate, acting under the old law, shall continue to act as if appointed under the new law, until others are appointed in their stead : and all proceedings taken under the old law shall be taken up and continued under the new law, when not inconsistent therewith : and all penalties and forfeitures may be recovered, and all proceedings had, in relation to matters which have happened before the repeal, in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law ;

As to acts, &c., done before repeal. 43. The repeal of an Act at any time shall not affect any act done or any right or right of action existing, accruing, accrued

or established, or any proceedings commenced in a civil cause, before the time when such repeal shall take effect; but the proceedings in such case shall be conformable when necessary to the repealing Act;

44. No offence committed, and no penalty or forfeiture incurred, and no proceeding pending under any Act at any time repealed, shall be affected by the repeal, except that the proceedings shall be conformable, where necessary, to the repealing Act, and that where any penalty, forfeiture or punishment has been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal; Offences committed and penalties incurred not affected by repeal.

45. All rules and regulations made under an Act before the repeal thereof, shall continue valid until altered or annulled; Rules, &c., made before repeal.

46. All appointments, and all bonds and securities given by the parties appointed under any Act at any time passed and repealed shall not be affected thereby, but shall remain in full force; and all offices, establishments, books, papers and other things made or used under a repealed Act, shall continue as before the repeal; Appointments and bonds given before repeal.

47. No provision or enactment in any Act shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor if the Act be in the nature of a Private Act, shall it affect the rights of any person, or body politic, corporate, or collegiate, such only excepted as are therein mentioned or referred to. Acts that affect the Crown unless so declared. Private Acts.

48. Nothing in this section shall exclude the application to any Act, of any rule of construction applicable thereto, and not inconsistent with this section. R. S. O. 1877, c. 1, s. 8, (23-47). Other rules of construction applicable.

9. The interpretation section of *The Judicature Act*, so far as the terms defined can be applied, shall extend to all enactments relating to legal matters. 49 V. c. 16, s. 3. Interpretation section of Rev. Stat. c. 43.

10. The interpretation section of *The Municipal Act*, so far as the terms defined can be applied, shall extend to any Act which relates to Municipalities. R. S. O. 1877, c. 1, s. 9. Interpretation section of Municipal Acts.

11. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein. R. S. O. 1877, c. 1, s. 10. Provisions herein to apply to this Act.

CHAPTER 2.

An Act respecting the Printing and Distribution of the Statutes.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

How statutes shall be printed and bound.

Classification of statutes.

Certified copy of every Act to be furnished to Queen's Printer.

Queen's Printer to distribute Acts.

1. The Statutes shall be printed in royal octavo form, on fine paper, in small pica type, thirty-two ems by fifty-five ems, including marginal notes in minion, such notes referring to the year and chapter of previous Statutes, whenever the text amends, repeals or changes the enactments of former years ; and shall be half bound in cloth, with backs of red sheep-skin and lettered ; and they shall be arranged for distribution in such manner, either by the binding of the Public General Acts and Acts of a local or private character, in separate volumes, or by binding them together in the same volumes with separate indexes or otherwise, as the Lieutenant-Governor in Council may deem expedient. R. S. O. 1877, c. 2, s. 1.

2. The Clerk of the Legislative Assembly shall furnish the Queen's Printer with a certified copy of every Act of the Legislature, so soon as the same has received assent, or if the Bill has been reserved, so soon as the assent thereto has been proclaimed in this Province. R. S. O. 1877, c. 2, s. 2.

3. The Queen's Printer shall, immediately after the close of each Session of the Legislature, or so soon after as may be practicable, deliver or transmit by post, or otherwise, in the most economical mode, the proper number of printed copies of the Acts of the Session (to be printed by him at the public expense) to the parties hereinafter mentioned, that is to say :—

(a) To the members of the Legislative Assembly respectively, such numbers of copies each as may from time to time be directed by any resolution of the said Assembly, or in default of such resolution, in such numbers as shall be directed by any order of the Lieutenant-Governor in Council ;

(b) To such Public Departments, Administrative Bodies and Officers, throughout the Dominion of Canada, as may be specified in any order to be for that purpose made from time to time by the Lieutenant-Governor in Council. R. S. O. 1877, c. 2, s. 3.

4. When a Bill receives assent during and before the termination of a Session of the Legislature, the Queen's Printer shall, on intimation to that effect from the Provincial Secretary, cause distribution to be made of such number of copies thereof, to the same parties and in like manner as is hereinbefore provided in regard to the Acts of any Session. R. S. O. 1877, c. 2, s. 4.

Distribution of Bills assented to before the end of the Session.

5. The Provincial Secretary shall, within fifteen days after the close of every Session of the Legislature, transmit to the Queen's Printer a list of all the Public Departments, Administrative Bodies and Officers to whom such copies are to be transmitted as aforesaid, and shall also, from time to time, as occasion requires, furnish him with copies of all Orders in Council made under the provisions of this Act. R. S. O. 1877, c. 2, s. 5.

List to be furnished of persons to receive copies.

6. If after the distribution of the said printed Acts any copies remain in the hands of the Queen's Printer, he may deliver any number thereof to any person by order of the Lieutenant-Governor, on notice thereof by the Provincial Secretary, or to the members of the Legislative Assembly, on the order of the Speaker of the said Assembly. R. S. O. 1877, c. 2, s. 6.

Disposition of remaining copies.

7. The Queen's Printer shall, before the opening of every Session of the Legislative Assembly, make a report in triplicate to the Lieutenant-Governor (to be by him laid before the said Assembly within fifteen days after the opening of such Session), shewing the number of copies of the Acts of each Session which have been printed and distributed by him since the last Session, the departments, administrative bodies, officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the number of copies of the Acts of each Session then remaining in his hands, and containing also a detailed account of the expenses by him actually incurred in carrying this Act into effect, to the end that provision may be made for defraying the same, after such account has been duly audited and allowed. R. S. O. 1877, c. 2, s. 7.

Report by Queen's Printer as to number of copies distributed, and as to expense incurred by him.

SECTION II.

TERRITORIAL DIVISION.

CHAP. 3.—BOUNDARY BETWEEN THE PROVINCES OF ONTARIO AND QUEBEC,
p. 12.

4.—NORTHERLY AND WESTERLY BOUNDARIES OF ONTARIO, p. 14.

5.—TERRITORIAL DIVISION OF ONTARIO, p. 17.

6.—PROVISIONAL COUNTY OF HALIBURTON, p. 40.

CHAPTER 3.

An Act respecting the Boundary between the Provinces of Ontario and Quebec.

Preamble.

WHEREAS it was, by Royal Proclamation, dated the 18th day of June, in the year 1791, declared that the then Province of Quebec should be divided into two distinct Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said two Provinces according to the following Line of Division, viz.—Commencing at a stone boundary on the North Bank of the Lake St. Francis at the cove west of Pointe au Baudet, in the limit between the Township of Lancaster and the Seigniorie of New Longueuil, running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigniorie of New Longueuil, thence along the north-western boundary of the Seigniorie of Vaudeuil, running north twenty-five degrees east until it strikes the Ottawa River, to ascend the said river into the Lake Temiscamingue, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line, to the utmost extent of the country commonly called or known by the name of Canada;

And whereas the point to be regarded as the head of Lake Temiscamingue had never been authoritatively determined, and in consequence that portion of the boundary line between the Provinces of Upper and Lower Canada, now respectively named the Provinces of Ontario and Quebec, north of the said lake, had never been defined; and whereas it was considered expedient by the Governments of the said Provinces of Ontario and

Quebec, that the said undetermined portion of the said boundary line between the said Provinces should no longer continue uncertain, and it was, subject to ratification by the Legislatures of the said Provinces and by the Parliament of Canada, agreed between the Governments of the said Provinces that the point at the head of Lake Temiscamingue, from which the said boundary line shall run due north, should be determined in the following manner, that is to say :—

1. That a line should be surveyed running due east from a monument planted on the east bank of the River Blanche, the position of which monument is, upon a map shewing the proposed boundary, (a duplicate whereof, signed by the Honourable Richard William Scott, formerly Commissioner of Crown Lands of the Province of Ontario, and the Honourable Pierre Fortin, formerly Commissioner of Crown Lands of the Province of Quebec, is filed in the Department of Crown Lands of the Province of Ontario) shewn and marked with the letter H, and that the said due east line should be continued to the west bank of the River Quinze ;

2. That the said line so surveyed should be divided into two equal parts, and that at the point of bisection a permanent monument should be planted ;

3. That from the said point of bisection a line should be run due south through the mainland and through the island marked upon the said map as Island No. 2, until the said line intersects the southern boundary of the said island at the water's edge, and that the said point of intersection of the said line with the southerly boundary of the said Island No. 2, at the water's edge, should be the point at the head of Lake Temiscamingue from which the boundary line between the said Provinces of Ontario and Quebec should be run due north ;

And whereas the Governments of the said Provinces of Ontario and Quebec have caused the said lines to be surveyed, and the said point determined upon the ground, and have also caused to be made a survey from a point on the middle of the Ottawa River, opposite the mouth of the Mattawan River, up the waters of the Ottawa River, into Lake Temiscamingue, and through the said Lake to the said point determined in manner aforesaid at the head of Lake Temiscamingue, and thence due north as far as it is deemed necessary to survey at the present time the said line northerly ;

And whereas it is intended that a line indicating the boundary between the Provinces so ascertained as aforesaid, shall be marked and laid down upon a map made in duplicate, to be signed by the Commissioner of Crown Lands for the Province of Ontario and the Commissioner of Crown Lands for the Province of Quebec ;

And whereas by chapter 28 of the Acts of the Parliament Imp. Act. of the United Kingdom of Great Britain and Ireland, passed in 34-35 V. c. 28.

the Session held in the 34th and 35th years of Her Majesty's reign and intituled *An Act respecting the establishment of Provinces in the Dominion of Canada*, it is enacted that "the Parliament of Canada may, from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution, or alteration of territory in relation to any Province affected thereby;"

And whereas it is expedient that the said line so surveyed and laid down should be established as the boundary line between this Province and the Province of Quebec;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Parliament of the Dominion of Canada, may establish the line between Ontario and Quebec.

1. In case the Legislature of the Province of Quebec also consents thereto, the Legislature of the Province of Ontario hereby consents that the Parliament of the Dominion of Canada do declare and establish the line to be marked and laid down in manner aforesaid, and the continuation of the said line due north to the northerly limit of the said Provinces, as the boundary line between this Province and the Province of Quebec, whether the same increases, diminishes or otherwise alters the limits of this Province.* R. S. O. 1877, c. 3, s. 1.

CHAPTER 4.

An Act respecting the Northerly and Westerly boundaries of Ontario.

Preamble.

WHEREAS the Northerly and Westerly boundaries of the Province of Ontario were not determined until lately;

And whereas pending the determination thereof certain provisional lines, which for certain purposes were to be regarded as such boundary lines, were agreed to by the Governments of the Dominion and the Province;

And whereas it was agreed by the Governments of the Dominion of Canada and the Province of Ontario that the true boundaries should be determined by reference to arbitration;

And whereas one of the arbitrators named in the Revised Statutes of Ontario, 1877, chapter 4, died, and the other resigned without having made any award;

*The consent of the Legislature of Quebec was given by the Act of that Province, 38 V. c. 6, but no Act has yet been passed by the Parliament of Canada to establish the boundary line above referred to.

And whereas the Governor-General of Canada in Council afterwards named as arbitrator the Honourable Sir Francis Hincks, of the city of Montreal, Knight, and the Lieutenant-Governor in Council of this Province named as arbitrator the Honourable Robert Alexander Harrison, Chief Justice of Ontario;

And whereas the two Governments further agreed that the Right Honourable Sir Edward Thornton, Knight, should be the third arbitrator, and that the determination of the award of the said arbitrators, or a majority of them, in the matter of the said boundaries should be taken as final and conclusive;

And whereas on the third day of August, in the year of our Lord 1878, the said arbitrators made their award in writing, in the words following:—"The undersigned having been appointed by the Governments of Canada and Ontario as Arbitrators to determine the Northerly and Westerly Boundaries of Ontario, do hereby determine and decide that the following are and shall be such boundaries, that is to say:—Commencing at a point on the southern shore of Hudson's Bay, commonly called James Bay, where a line produced due north from the head of Lake Temiscamingue would strike the said south shore, thence along the said south shore westerly to the mouth of the Albany River, thence up the middle of the said Albany River and of the lakes thereon, to the source of the said river at the head of Lake St. Joseph; thence by the nearest line to the easterly end of Lac Seul, being the head waters of the English River; thence westerly through the middle of Lac Seul, and the said English River to a point where the same will be intersected by a true meridional line drawn northerly from the international monument placed to mark the most north-westerly angle of the Lake of the Woods by the recent Boundary Commission, and thence due south, following the said meridional line to the said international monument; thence southerly and easterly following upon the international boundary line between the British possessions and the United States of America into Lake Superior. But if a true meridional line, drawn northerly from the said international boundary at the said most north-westerly angle of the Lake of the Woods, shall be found to pass to the west of where the English River empties into the Winnipeg River, then, and in such case the northerly boundary of Ontario shall continue down the middle of the said English River to where the same empties into the Winnipeg River, and shall continue thence on a line drawn due west from the confluence of the said English River with the said Winnipeg River, until the same will intersect the meridian above described, and thence due south, following the said meridional line to the said international monument, thence southerly and easterly, following upon the international boundary line between the British possessions and the United States of America into Lake Superior;"

And whereas the effect of the said award is to give to this Province less territory than had been claimed on behalf of the

Province, and more territory than the Government of Canada had contended to be within the limits of the Province, or than was contained within the provisional boundary lines aforesaid ;

Imp. Act,
34-35 V. c. 28.

And whereas, by chapter 28 of the Acts of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the Session held in the 34th and 35th years of Her Majesty's reign, and intituled *An Act respecting the establishment of Provinces in the Dominion of Canada*, it is enacted that the Parliament of Canada may, from time to time, with the consent of the Legislature of any Province in the Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase, or diminution, or alteration of territory in relation to any Province affected thereby ;

And whereas it is proper that the boundaries determined by the said award be adopted and confirmed ;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Parliament of
Canada may
declare Nor-
therly and
Westerly
boundaries of
Ontario

1. The Legislature of the Province of Ontario consents that the Parliament of Canada may declare that the boundaries which, by the award of the arbitrators aforesaid were decided to be the northerly and westerly boundaries, respectively, of this Province, shall be and are the northerly and westerly boundaries thereof, whether the same increase, diminish, or otherwise alter the true northerly and westerly limits of the Province.* 42 V. c. 2, s. 1.

*The Judicial Committee of the Privy Council, on a special case referred to them respecting the western boundary of the Province of Ontario, reported on the 22nd July, 1884, to Her Majesty as follows :—

"That upon the evidence, their Lordships find the true boundary between the western part of the Province of Ontario and the south-eastern part of the Province of Manitoba to be so much of a line drawn to the Lake of the Woods through the waters eastward of that lake and west of Long Lake, which divide British North America from the territory of the United States, and thence through the Lake of the Woods to the most north-western point of that lake as runs northward from the United States boundary, and from the most north-western point of the Lake of the Woods, a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg ; and their Lordships find the true boundary between the same two provinces to the north of Ontario and to the south of Manitoba, proceeding eastward from the point at which the before mentioned line strikes the middle line of the course of the river last aforesaid, to be along the middle line of the course of the same river (whether called by the name of the English River, or as to the part below the confluence, by the name of the River Winnipeg), up to Lake Seul, or the Lonely Lake, and thence along the middle line of Lake Seul or the Lonely Lake to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along the middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves, until it reaches a line drawn due north from the confluence of the rivers Mississippi and Ohio, which forms the boundary eastward of the Province of Manitoba."

This report was approved by order of Her Majesty in Council, dated the 11th day of August, 1884.

CHAPTER 5.

An Act respecting the Territorial Division of Ontario
for Municipal and Judicial purposes.

EXISTING DIVISIONS OF ONTARIO CONTINUED, s. 1.	UNION OF CITIES WITH COUNTIES FOR JUDICIAL PURPOSES, s. 3.
Counties, s. 1 (1-42).	HOLDING OF COURTS IN COUNTIES, ETC., s. 5.
Provisional County of Haliburton, s. 1 (43).	COURT HOUSES, GAOLS, SCHOOL HOUSES, ETC., EXISTING PRO- PERTY IN, CONTINUED, s. 6.
Provisional Judicial Districts, s. 1 (44, 45).	BOUNDARIES OF TOWNSHIPS ON LAKES AND RIVERS, ss. 7-10.
Territorial Districts, s. 1 (46-48).	ISLANDS, s. 11.
Temporary Judicial District of Nipissing, s. 1 (49).	FORMATION OF NEW TOWNSHIPS, ss. 12, 13.
EXPRESS MENTION OF TOWNS, ETC., NOT TO EXCLUDE GENERAL PRO- VISIONS IN CASES OF TOWNS, ETC., NOT MENTIONED, s. 2.	ANNEXATION OF GORES OF LAND TO TOWNSHIPS, s. 14.
UNITED COUNTIES, ss. 3, 4.	

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. The Territorial Division of Ontario into Counties and Districts shall continue as hereinafter set forth, and for municipal and judicial purposes such Counties, and for judicial purposes such Districts, shall respectively consist of the several Townships hereinafter mentioned, including in the said Townships, Counties and Districts the Towns and Incorporated Villages situated within the limits of such Townships, Counties and Districts respectively, and including in certain of such Counties and Districts other lands as hereinafter mentioned. R. S. O. 1877, c. 5, s. 1.

Existing or
organization
continued.

1.—THE COUNTY OF BRANT

Brant.

Shall consist of the Townships of—

- | | |
|--------------------|---------------|
| 1. Brantford, | 4. Oakland, |
| 2. Burford, | 5. Onondaga, |
| 3. South Dumfries, | 6. Tuscarora, |

The City of Brantford,
And the Town of Paris.

R. S. O. 1877, c. 5, s. 1 (1.)

Bruce.

2.—THE COUNTY OF BRUCE

Shall consist of the Townships of—

- | | |
|----------------------|-----------------|
| 1. Arran, | 9. Eastnor, |
| 2. Albemarle, | 10. Elderslie, |
| 3. Amabel, | 11. Greenock, |
| 4. Brant, | 12. Huron, |
| 5. Bruce, | 13. Kincardine, |
| 6. Bury St. Edmunds, | 14. Kinloss, |
| 7. Carrick, | 15. Lindsay, |
| 8. Culross, | 16. Saugeen, |

Together with all that portion of the peninsular tract of land known as the Indian Reserve, and not included in the County of Grey, and the Islands in Lake Huron and the Georgian Bay contiguous to the said Reserve,

The Towns of—

- | | |
|----------------|---------------|
| 1. Kincardine, | 2. Walkerton. |
|----------------|---------------|

And the Villages of—

- | | |
|---------------------------|----------------------------|
| 1. Chesley (43 V. c. 39), | 6. Tara, |
| 2. Lucknow, | 7. Teeswater, |
| 3. Paisley, | 8. Tiverton (42 V. c. 43), |
| 4. Port Elgin, | 9. Wiarton (43 V. c. 46), |
| 5. Southampton, | |

R. S. O. 1877, c. 5, s. 1 (2).

Carleton.

3.—THE COUNTY OF CARLETON

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Fitzroy, | 6. March, |
| 2. Gloucester, | 7. Marlborough, |
| 3. Goulburn, | 8. Nepean, |
| 4. Gower North, | 9. Osgoode, |
| 5. Huntley, | 10. Tarbolton. |

The City of Ottawa,

And the Village of Richmond.

R. S. O. 1877, c. 5, s. 1 (3).

Dufferin.

4.—THE COUNTY OF DUFFERIN

Shall consist of the Townships of—

- | | |
|-------------------------------|----------------|
| 1. Amaranth, | 4. Melancthon, |
| 2. Garafraxa East, | 5. Mono, |
| 3. Luther East (45 V. c. 38), | 6. Mulmur, |

The Town of Orangeville.

And the Village of Shelburne. 38 V. c. 31; 43 V. c. 37.

Dundas.

5.—THE COUNTY OF DUNDAS

Shall consist of the Townships of—

- | | |
|--------------|-------------------|
| 1. Matilda, | 3. Williamsburgh, |
| 2. Mountain, | 4. Winchester, |

And the Villages of—

- | | |
|--------------|--------------------------------|
| 1. Iroquois, | 2. Morrisburgh. |
| | R. S. O. 1877, c. 5, s. 1 (4). |

6.—THE COUNTY OF DURHAM

Durham.

Shall consist of the Townships of—

- | | |
|----------------|----------------|
| 1. Cartwright, | 4. Darlington, |
| 2. Cavan, | 5. Hope, |
| 3. Clarke, | 6. Manvers, |

The Towns of—

- | | |
|-----------------|---------------|
| 1. Bowmanville, | 2. Port Hope, |
|-----------------|---------------|

And the Villages of—

- | | |
|---------------|--------------------------------|
| 1. Millbrook, | 2. Newcastle. |
| | R. S. O. 1877, c. 5, s. 1 (5). |

7.—THE COUNTY OF ELGIN

Elgin.

Shall consist of the Townships of—

- | | |
|----------------------|---------------|
| 1. Aldborough, | 5. Malahide, |
| 2. Bayham, | 6. Southwold, |
| 3. Dorchester, South | 7. Yarmouth, |
| 4. Dunwich, | |

The City of St. Thomas (44 V. c. 46.)

The Town of Aylmer,

And the Villages of—

- | | |
|------------------|------------|
| 1. Port Stanley, | 3. Vienna. |
| 2. Springfield, | |

R. S. O. 1877, c. 5, s. 1 (6.)

8.—THE COUNTY OF ESSEX

Essex.

Shall consist of the Townships of—

- | | |
|---------------------------------|---------------------|
| 1. Anderdon, | 8. Mersea, |
| 2. Colchester, North, } (42 V. | 9. Pelée, |
| 3. Colchester, South, } c. 45). | 10. Rochester, |
| 4. Gosfield, North } (50 V. | 11. Sandwich, East, |
| 5. Gosfield, South } c. 51). | 12. Sandwich, West, |
| 6. Maidstone, | 13. Tilbury, West, |
| 7. Malden, | |

The Towns of—

- | | |
|-----------------|-------------|
| 1. Amherstburg, | 3. Windsor, |
| 2. Sandwich, | |

And the Villages of—

- | | |
|------------------|----------------|
| 1. Belle River, | 3. Kingsville, |
| 2. Essex Centre, | 4. Leamington, |

Except that the Township of Pelée shall continue to be separate, for municipal purposes, from the County of Essex.

R. S. O. 1877, c. 5, s. 1 (7).

Frontenac

9.—THE COUNTY OF FRONTENAC

Shall consist of the Townships of—

- | | |
|-------------------|--|
| 1. Barrie, | 10. Loughborough, |
| 2. Bedford, | 11. Miller, |
| 3. North Canonto, | 12. Olden, |
| 4. South Canonto, | 13. Oso, |
| 5. Clarendon, | 14. Palmerston, |
| 6. Hinchinbrooke, | 15. Pittsburgh, |
| 7. Howe Island, | 16. Portland, |
| 8. Kennebec, | 17. Storrington, |
| 9. Kingston, | 18. Wolfe Island (including
Simcoe Island, Horse Shoe Island and Mud Island.) |

The City of Kingston,

And the Villages of—

- | | |
|-------------------|----------------|
| 1. Garden Island, | 2. Portsmouth. |
|-------------------|----------------|
- R. S. O. 1877, c. 5, s. 1 (8).

Glengarry.

10.—THE COUNTY OF GLENGARRY

Shall consist of the Townships of—

- | | |
|---------------------|---------------|
| 1. Charlottenburgh, | 3. Lancaster, |
| 2. Kenyon, | 4. Lochiel. |

And the Village of Alexandria.

R. S. O. 1877, c. 5, s. 1 (9).

Grenville.

11.—THE COUNTY OF GRENVILLE

Shall consist of the Townships of—

- | | |
|------------------|------------------------|
| 1. Augusta, | 4. Oxford (on Rideau), |
| 2. Edwardsburgh, | 5. Wolford. |
| 3. Gower, South, | |

The Town of Prescott,

And the Villages of—

- | | |
|----------------|------------------|
| 1. Cardinal, | 3. Merrickville. |
| 2. Kemptville, | |

R. S. O. 1877, c. 5, s. 1 (10).

Grey.

12.—THE COUNTY OF GREY

Shall consist of the Townships of—

- | | |
|-----------------|--------------------|
| 1. Artemesia, | 9. Keppel, |
| 2. Bentinck, | 10. Normanby, |
| 3. Collingwood, | 11. Osprey, |
| 4. Derby, | 12. Proton, |
| 5. Egremont, | 13. Saint Vincent, |
| 6. Euphrasia, | 14. Sarawak, |
| 7. Glenelg, | 15. Sullivan, |
| 8. Holland, | 16. Sydenham, |

Together with (exclusive of the Townships of Keppel and Sarawak) that portion of the peninsular tract of

land known as the Indian Reserve, and situated between lines drawn northward from the north-east angle of Arran and the north-west angle of Derby, until they respectively strike Colpoy's Bay, on the east side of the Indian Village, and the waters of the Georgian Bay, and the Islands contiguous thereto.

The Towns of—

- | | |
|-------------|------------------------------|
| 1. Durham. | 3. Owen Sound. |
| 2. Meaford, | 4. Thornbury, (50 V. c. 68). |

And the Village of Dundalk.

R. S. O. 1877, c. 5, s. 1 (11).

13.—THE COUNTY OF HALDIMAND

Haldimand.

Shall consist of the Townships of—

- | | |
|-------------------|----------------|
| 1. Canborough, | 6. Oneida, |
| 2. Cayuga, North, | 7. Rainham, |
| 3. Cayuga, South, | 8. Seneca, |
| 4. Dunn, | 9. Sherbrooke, |
| 5. Moulton, | 10. Walpole, |

And the Villages of—

- | | |
|---------------|-----------------|
| 1. Caledonia, | 3. Dunnville. |
| 2. Cayuga, | 4. Hagersville. |

R. S. O. 1877, c. 5, s. 1 (12).

14.—THE COUNTY OF HALTON

Halton.

Shall consist of the Townships of—

- | | |
|-----------------|---------------|
| 1. Esquesing, | 3. Nelson, |
| 2. Nassagaweya, | 4. Trafalgar. |

The Towns of—

- | | |
|------------|--------------|
| 1. Milton, | 2. Oakville, |
|------------|--------------|

And the Villages of—

- | | |
|----------------|----------------|
| 1. Acton, | 3. Georgetown. |
| 2. Burlington, | |

R. S. O. 1877, c. 5, s. 1 (13).

15.—THE COUNTY OF HASTINGS

Hastings.

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Bangor, | 13. Madoc, |
| 2. Carlow, | 14. Marmora, |
| 3. Cashel, | 15. Mayo, |
| 4. Dunganon, | 16. McClure, |
| 5. Elzevir, | 17. Monteagle, |
| 6. Faraday, | 18. Rawdon, |
| 7. Grimsthorpe, | 19. Sidney, |
| 8. Herschel, | 20. Thurlow, |
| 9. Hungerford, | 21. Tudor, |
| 10. Huntingdon, | 22. Tyendinaga, |
| 11. Lake, | 23. Wicklow, |
| 12. Limerick, | 24. Wollaston, |

The City of Belleville,

The Town of Trenton,

And the Villages of—

1. Deseronto (44 V. c. 42), 3. Stirling.

2. Madoc,

R. S. O. 1877, c. 5, s. 1 (14).

Huron.

16.—THE COUNTY OF HURON

Shall consist of the Townships of—

- | | |
|--------------|---------------------|
| 1. Ashfield, | 9. Morris, |
| 2. Colborne, | 10. Stanley, |
| 3. Goderich, | 11. Stephen, |
| 4. Grey, | 12. Tuckersmith, |
| 5. Hay, | 13. Turnberry, |
| 6. Howick, | 14. Usborne, |
| 7. Hullett, | 15. Wawanosh, East, |
| 8. McKillop, | 16. Wawanosh, West, |

The Towns of—

- | | |
|--------------|--------------|
| 1. Clinton, | 3. Seaforth, |
| 2. Goderich, | 4. Wingham, |

And the Villages of—

- | | |
|--------------|---------------------------------|
| 1. Bayfield, | 4. Exeter, |
| 2. Blythe, | 5. Wroxeter, |
| 3. Brussels, | R. S. O. 1877, c. 5, s. 1 (15). |

Kent.

17.—THE COUNTY OF KENT

Shall consist of the Townships of—

- | | |
|-----------------|--------------------|
| 1. Camden, | 7. Orford, |
| 2. Chatham, | 8. Raleigh, |
| 3. Dover, East, | 9. Romney, |
| 4. Dover, West, | 10. Tilbury, East, |
| 5. Harwich, | 11. Zone. |
| 6. Howard, | |

The Towns of—

- | | |
|--------------|---------------|
| 1. Blenheim, | 4. Dresden, |
| 2. Bothwell, | 5. Ridgetown, |
| 3. Chatham, | |

And the Villages of—

- | | |
|-----------------------------------|---------------------------------|
| 1. Thamesville, | 3. Wallaceburg. |
| 2. Tilbury Centre, (50 V. c. 70). | R. S. O. 1877, c. 5, s. 1 (16). |

Lambton.

18.—THE COUNTY OF LAMBTON

Shall consist of the Townships of—

- | | |
|---------------|-----------------|
| 1. Bosanquet, | 5. Enniskillen, |
| 2. Brooke, | 6. Moore, |
| 3. Dawn, | 7. Plympton, |
| 4. Euphemia, | 8. Sarnia, |

9. Sombra, including Walpole the mouth of the River
Island, St. Anne's Island, St. Clair,
and the other Islands at 10. Warwick.

The Towns of—

1. Sarnia, 2. Petrolia,

And the Villages of—

1. Alvinston, 5. Point Edward,
2. Arkona, 6. Thedford,
3. Forest, 7. Watford,
4. Oil Springs, 8. Wyoming.
R. S. O. 1877, c. 5, s. 1 (17).

19.—THE COUNTY OF LANARK

Lanark.

Shall consist of the Townships of

1. Bathurst, 8. Lanark,
2. Beckwith, 9. Lavant,
3. Burgess, North, 10. Montague,
4. Dalhousie, 11. Pakenham,
5. Darling, 12. Ramsay,
6. Drummond, 13. Sherbrooke, North,
7. Elmsley, North, 14. Sherbrooke, South,

The Towns of—

1. Almonte, 3. Smith's Falls,
2. Perth,

And the Villages of—

1. Carleton Place, 2. Lanark.
R. S. O. 1877, c. 5, s. 1 (18)

20.—THE COUNTY OF LEEDS

Leeds.

Shall consist of the Townships of—

1. Bastard, 8. Kitley,
2. Burgess, South, 9. Front of Leeds and Lans-
3. Crosby, North, downe,
4. Crosby South, 10. Rear of Leeds and Lans-
5. Elizabethtown, downe,
6. Elmsley, South, 11. Front of Yonge,
7. Front of Escott, 12. Rear of Yonge and Escott,

The Town of Brockville,

And the Villages of—

1. Gananoque, 2. Newboro'.
R. S. O. 1877, c. 5, s. 1 (19).

21.—THE COUNTY OF LENNOX AND ADDINGTON

Lennox and
Addington.

Shall consist of the Townships of—

1. Abinger, 5. Ashby
2. Adolphustown, 6. Camden,
3. Amherst Island, 7. Denbigh,
4. Anglesea, 8. Effingham,

- | | |
|-----------------------------|----------------|
| 9. Ernestown, | 12. Kaladar, |
| 10. Fredericksburgh, North, | 13. Richmond, |
| 11. Fredericksburgh, South, | 14. Sheffield, |
| The Town of Napanee, | |
| And the Villages of— | |
| 1. Bath, | 2. Newburgh. |
- R. S. O. 1877, c. 5, s. 1 (20).

Lincoln.

22.—THE COUNTY OF LINCOLN

Shall consist of the Townships of—

- | | |
|------------------|--------------------------------|
| 1. Caistor, | 5. Grimsby, North, } (45 V. c. |
| 2. Clinton, | 6. Grimsby, South, } 33). |
| 3. Gainsborough, | 7. Louth, |
| 4. Grantham, | 8. Niagara, |

The City of St. Catharines,

The Town of Niagara,

And the Villages of—

- | | |
|--------------------|--------------------|
| 1. Grimsby, | 3. Merritton, |
| 2. Grimsby, North, | 4. Port Dalhousie. |
- R. S. O. 1877, c. 5, s. 1 (21).

Middlesex.

23.—THE COUNTY OF MIDDLESEX

Shall consist of the Townships of—

- | | |
|-----------------------|---------------------|
| 1. Adelaide, | 9. McGillivray, |
| 2. Biddulph, | 10. Metcalfe, |
| 3. Caradoc, | 11. Mosa, |
| 4. Delaware, | 12. Nissouri, West, |
| 5. Dorchester, North, | 13. Westminster, |
| 6. Ekfrid, | 14. East Williams, |
| 7. Lobo, | 15. West Williams, |
| 8. London, | |

The City of London, (48 V. c. 63).

The Towns of—

- | | |
|---------------|----------------------------|
| 1. Strathroy, | 2. Parkhill (49 V. c. 62.) |
|---------------|----------------------------|

And the Villages of—

- | | |
|-----------------|-------------------------------|
| 1. Ailsa Craig, | 4. Newbury, |
| 2. Glencoe, | 5. London West (44 V. c. 45), |
| 3. Lucan, | 6. Wardsville. |

R. S. O. 1877, c. 5, s. 1 (22).

Norfolk.

24.—THE COUNTY OF NORFOLK.

Shall consist of the Townships of—

- | | |
|--------------------|---------------------------------------|
| 1. Charlotteville, | 5. Walsingham (including Long Point), |
| 2. Houghton, | |
| 3. Middleton, | 6. Windham, |
| 4. Townsend, | 7. Woodhouse, |

The Town of Simcoe,
And the Villages of—

- | | |
|---------------------------------|---------------|
| 1. Port Dover, | 2. Waterford. |
| R. S. O. 1877, c. 5, s. 1 (23). | |

25.—THE COUNTY OF NORTHUMBERLAND.

Northumber-
land.

Shall consist of the Townships of—

- | | |
|---------------|--------------------|
| 1. Alnwick, | 6. South Monaghan, |
| 2. Brighton, | 7. Murray, |
| 3. Cramahe, | 8. Percy, |
| 4. Haldimand, | 9. Seymour, |
| 5. Hamilton, | |

The Town of Cobourg,
And the Villages of—

- | | |
|---------------------------------|--------------|
| 1. Brighton, | 3. Colborne, |
| 2. Campbellford, | 4. Hastings, |
| R. S. O. 1877, c. 5, s. 1 (24). | |

26.—THE COUNTY OF ONTARIO.

Ontario.

Shall consist of the Townships of—

- | | |
|---------------|-----------------------------|
| 1. Brock, | 7. Scugog, |
| 2. Mara, | 8. Thorah (including Canise |
| 3. Pickering, | Island), |
| 4. Rama, | 9. Uxbridge, |
| 5. Reach, | 10. Whitby, |
| 6. Scott, | 11. East Whitby, |

The Towns of—

- | | |
|------------|--------------|
| 1. Oshawa, | 3. Uxbridge, |
| 2. Whitby, | |

And the Villages of—

- | | |
|----------------|----------------|
| 1. Beaverton, | 3. Port Perry. |
| 2. Cannington, | |

R. S. O. 1877, c. 5, s. 1 (25).

27.—THE COUNTY OF OXFORD

Oxford.

Shall consist of the Townships of—

- | | |
|--------------------|-------------------|
| 1. Blandford, | 7. Oxford, North, |
| 2. Blenheim, | 8. Oxford, East, |
| 3. Dereham, | 9. Oxford, West, |
| 4. Nissouri, East, | 10. Zorra, East, |
| 5. North Norwich, | 11. Zorra, West, |
| 6. South Norwich, | |

The Towns of—

- | | |
|----------------|---------------|
| 1. Ingersoll, | 3. Woodstock, |
| 2. Tilsonburg, | |

And the Villages of—

- | | |
|---------------------------------|-------------|
| 1. Embro, | 2. Norwich. |
| R. S. O. 1877, c. 5, s. 1 (26). | |

Peel.

28.—THE COUNTY OF PEEL

Shall consist of the Townships of—

- | | |
|------------------|------------------|
| 1. Albion, | 4. Toronto, |
| 2. Caledon, | 5. Toronto Gore, |
| 3. Chinguacousy, | |

The Town of Brampton,

And the Villages of—

- | | |
|------------|------------------|
| 1. Bolton, | 2. Streetsville. |
|------------|------------------|

R. S. O. 1877, c. 5, s. 1 (27).

Perth.

29.—THE COUNTY OF PERTH

Shall consist of the Townships of—

- | | |
|---|-----------------|
| 1. Blanchard, | 6. Elma, |
| 2. Downie (including the Gore of Downie), | 7. Fullarton, |
| 3. Easthope, North, | 8. Hibbert, |
| 4. Easthope, South, | 9. Logan, |
| 5. Ellice, | 10. Mornington, |
| | 11. Wallace, |

The City of Stratford (48 V. c. 72).

The Towns of—

- | | |
|--------------|----------------|
| 1. Listowel, | 3. St. Mary's, |
| 2. Mitchell, | |

And the Village of Milverton.

R. S. O. 1877, c. 5, s. 1 (28).

Peterborough.

30.—THE COUNTY OF PETERBOROUGH

Shall consist of the Townships of—

- | | |
|----------------|----------------------|
| 1. Anstruther, | 9. Ennismore, |
| 2. Asphodel, | 10. Galway, |
| 3. Belmont, | 11. Harvey, |
| 4. Burleigh, | 12. Methuen, |
| 5. Cavendish, | 13. Monaghan, North, |
| 6. Chandos, | 14. Otonabee, |
| 7. Douro, | 15. Smith, |
| 8. Dummer, | |

The Town of Peterborough,

And the Villages of—

- | | |
|----------------|-------------|
| 1. Ashburnham, | 3. Norwood. |
| 2. Lakefield, | |

R. S. O. 1877, c. 5, s. 1 (29).

Prescott.

31.—THE COUNTY OF PRESCOTT

Shall consist of the Townships of—

- | | |
|----------------------|------------------------|
| 1. Alfred, | 5. Longueuil, |
| 2. Caledonia, | 6. Plantagenet, North, |
| 3. Hawkesbury, East, | 7. Plantagenet, South, |
| 4. Hawkesbury, West, | |

The Villages of—

- | | |
|----------------|---------------------------------|
| 1. Hawkesbury, | 2. L'Orignal |
| | R. S. O. 1877, c. 5, s. 1 (30). |

32.—THE COUNTY OF PRINCE EDWARD

Prince
Edward.

Shall consist of the Townships of—

- | | |
|------------------|-----------------------|
| 1. Ameliasburgh, | 5. Marysburgh, North, |
| 2. Athol, | 6. Marysburgh, South, |
| 3. Hallowell, | 7. Sophiasburgh, |
| 4. Hillier, | |

The Town of Picton,

And the Village of Wellington.

R. S. O. 1877, c. 5, s. 1 (31).

33.—THE COUNTY OF RENFREW

Renfrew.

Shall consist of the Townships of—

- | | |
|-------------------|------------------|
| 1. Admaston, | 20. Lyndoch, |
| 2. Algona, North, | 21. Maria, |
| 3. Algona, South, | 22. Matawatchan, |
| 4. Alice, | 23. McKay, |
| 5. Bagot, | 24. McNab, |
| 6. Blithfield, | 25. Pembroke, |
| 7. Bromley, | 26. Petawawa, |
| 8. Brougham, | 27. Radcliffe, |
| 9. Brudenell, | 28. Raglan, |
| 10. Buchanan, | 29. Richards, |
| 11. Burns, | 30. Rolph, |
| 12. Clara, | 31. Ross, |
| 13. Fraser, | 32. Sebastopol, |
| 14. Grattan, | 33. Sherwood, |
| 15. Griffith, | 34. Stafford, |
| 16. Hagarty, | 35. Westmeath, |
| 17. Head, | 36. Wilberforce, |
| 18. Horton, | 37. Wylie. |
| 19. Jones, | |

The Town of Pembroke,

And the Villages of—

- | | |
|--------------|-------------------|
| 1. Arnprior, | 2. Renfrew. |
| | 47 V. c. 3, s. 4. |

34.—THE COUNTY OF RUSSELL

Russell.

Shall consist of the Townships of—

- | | |
|---------------|----------------|
| 1. Cambridge, | 3. Cumberland, |
| 2. Clarence, | 4. Russell. |

And the Village of Rockland.

R. S. O. 1877, c. 5, s. 1 (33).

Simcoe.

35.—THE COUNTY OF SIMCOE

Shall consist of the Townships of—

- | | |
|----------------------|--------------------|
| 1. Adjala, | 10. South Orillia, |
| 2. Essa, | 11. Oro, |
| 3. Flos, | 12. Sunnidale, |
| 4. West Gwillimbury, | 13. Tay, |
| 5. Innisfil, | 14. Tecumseth, |
| 6. Matchedash, | 15. Tiny, |
| 7. Medonte, | 16. Tosorontio, |
| 8. Nottawasaga, | 17. Vespra, |
| 9. North Orillia. | |

Together with the tract of land bounded on the east by the line forming the easterly boundary of the Townships of Morrison, Muskoka, Monck, Watt and Cardwell, produced northerly to French River; on the north by French River; on the west by the waters of the Georgian Bay; and on the south by the River Severn and the Township of Rama; including the Islands in Lake Simcoe and the Georgian Bay, lying wholly or for the most part opposite to the said County of Simcoe, or any part thereof, and contiguous thereto;

The Towns of—

- | | |
|-----------------|--------------------------------------|
| 1. Barrie, | 3. Orillia, |
| 2. Collingwood, | 4. Penetanguishene (45 V.
c. 40). |

And the Villages of—

- | | |
|--------------|---------------|
| 1. Alliston, | 4. Midland, |
| 2. Beeton, | 5. Stayner, |
| 3. Bradford, | 6. Tottenham. |

Territory included in Muskoka or Parry Sound.

But such portions of the said County of Simcoe as are, by this Act, included within the limits of the Territorial Districts of Muskoka or Parry Sound, shall, for the purposes of *The Unorganized Territory Act*, continue to form part of the said Territorial Districts of Muskoka and Parry Sound respectively, and shall, for all judicial purposes not provided for by such Act, form part of the County of Simcoe. R. S. O. 1877, c. 5, s. 1 (34).

Stormont.

36.—THE COUNTY OF STORMONT

Shall consist of the Townships of—

- | | |
|--------------|----------------|
| 1. Cornwall, | 3. Osnabruck, |
| 2. Finch, | 4. Roxborough, |

And the Town of Cornwall.

R. S. O. 1877, c. 5, s. 1 (35).

Victoria.

37.—THE COUNTY OF VICTORIA

Shall consist of the Townships of—

- | | |
|------------|------------|
| 1. Bexley, | 4. Dalton, |
| 2. Brunel, | 5. Digby, |
| 3. Carden, | 6. Draper, |

- | | |
|---------------|-----------------|
| 7. Eldon, | 15. Oakley, |
| 8. Emily, | 16. Ops, |
| 9. Fenelon, | 17. Ridout, |
| 10. Laxton, | 18. Ryde, |
| 11. Longford, | 19. Somerville, |
| 12. Macaulay, | 20. Stephenson, |
| 13. Mariposa, | 21. Verulam, |
| 14. McLean, | |

The Town of Lindsay,

And the Villages of—

- | | |
|-------------------|-----------------------------|
| 1. Bobcaygeon, | 4. Omemee, |
| 2. Bracebridge, | 5. Woodville (47 V. c. 62). |
| 3. Fenelon Falls, | |

But such portions of the said County of Victoria as are, by this Act, included within the limits of the Territorial District of Muskoka, shall, for the purposes of *The Unorganized Territory Act*, continue to form part of the said District, and shall, for all judicial purposes not provided for by such Act, form part of the County of Simcoe; and for judicial purposes not provided for by *The Act respecting the Provisional County of Haliburton*, the said Provisional County shall continue to be attached to and form part of the County of Victoria. R. S. O. 1877, c. 5, s. 1 (36).

Certain townships, &c., included in Muskoka by this Act to form part of Simcoe for certain judicial purposes.

38.—THE COUNTY OF WATERLOO

Waterloo.

Shall consist of the Townships of—

- | | |
|--------------------|--------------|
| 1. North Dumfries, | 4. Wilmot, |
| 2. Waterloo, | 5. Woolwich, |
| 3. Wellesley, | |

The Towns of—

- | | |
|------------|--------------|
| 1. Berlin, | 3. Waterloo, |
| 2. Galt, | |

And the Villages of—

- | | |
|--------------|---------------------------------|
| 1. Ayr, | 4. New Hamburg, |
| 2. Elmira, | 5. Preston. |
| 3. Hespeler, | R. S. O. 1877, c. 5, s. 1 (37). |

39.—THE COUNTY OF WELLAND

Welland.

Shall consist of the Townships of—

- | | |
|-----------------|----------------|
| 1. Bertie, | 5. Stamford, |
| 2. Crowland, | 6. Thorold, |
| 3. Humberstone, | 7. Wainfleet, |
| 4. Pelham, | 8. Willoughby, |

The Towns of—

- | | |
|---------------------------------|-------------|
| 1. Niagara Falls (44 V. c. 35), | 3. Welland, |
| 2. Thorold, | |

And the Villages of—

- | | |
|---------------|-------------------|
| 1. Chippewa, | 3. Niagara Falls, |
| 2. Fort Erie, | 4. Port Colborne. |
- R. S. O. 1877, c. 5, s. 1 (38).

Wellington.

40.—THE COUNTY OF WELLINGTON

Shall consist of the Townships of—

- | | |
|--------------------------------|-----------------|
| 1. Arthur, | 7. Maryborough, |
| 2. Eramosa, | 8. Minto, |
| 3. Erin, | 9. Nichol, |
| 4. Garafraxa, West, | 10. Peel, |
| 5. Guelph, | 11. Pilkington, |
| 6. Luther, West (43 V. c. 41). | 12. Puslinch, |

The City of Guelph (42 V. c. 41),

The Towns of—

- | | |
|--------------------------------|----------------|
| 1. Harriston (41 V. c. 35), | 3. Palmerston, |
| 2. Mount Forest (42 V. c. 42), | |

And the Villages of—

- | | |
|--------------|------------|
| 1. Arthur, | 4. Elora, |
| 2. Clifford, | 5. Erin, |
| 3. Drayton, | 6. Fergus. |
- R. S. O. 1877, c. 5, s. 1 (39).

Wentworth.

41.—THE COUNTY OF WENTWORTH

Shall consist of the Townships of—

- | | |
|--------------|-----------------------|
| 1. Ancaster, | 5. Flamborough, East, |
| 2. Barton, | 6. Flamborough, West, |
| 3. Beverly, | 7. Glanford, |
| 4. Binbrook, | 8. Saltfleet, |

The City of Hamilton,

The Town of Dundas,

And the Village of Waterdown. R. S. O. 1877, c. 5, s. 1 (40).

York.

42.—THE COUNTY OF YORK

Shall consist of the Townships of—

- | | |
|------------------------|-----------------|
| 1. Etobicoke, | 6. Markham, |
| 2. Georgina, | 7. Scarborough, |
| 3. Gwillimbury, East, | 8. Vaughan, |
| 4. Gwillimbury, North, | 9. Whitchurch, |
| 5. King, | 10. York, |

The City of Toronto,

The Towns of—

- | | |
|---------------|--------------|
| 1. Newmarket, | 2. Parkdale, |
|---------------|--------------|

And the Villages of—

- | | |
|---------------------|-----------------|
| 1. Aurora, | 5. Stouffville, |
| 2. Holland Landing, | 6. Weston, |
| 3. Markham, | 7. Woodbridge. |
| 4. Richmond Hill, | |

Subject, however, to the provisions of chapter 16, sec. 2, of these Revised Statutes. R. S. O. 1877, c. 5, s. 1 (41).

43.—THE PROVISIONAL COUNTY OF HALIBURTON Haliburton.

Shall consist of the Townships of—

- | | |
|---------------|------------------|
| 1. Anson, | 13. Hindon, |
| 2. Bruton, | 14. Lawrence, |
| 3. Cardiff, | 15. Livingstone, |
| 4. Clyde, | 16. Lutterworth, |
| 5. Dudley, | 17. McClintock, |
| 6. Dysart, | 18. Minden, |
| 7. Eyre, | 19. Monmouth, |
| 8. Glamorgan, | 20. Nightingale, |
| 9. Guilford, | 21. Sherborne, |
| 10. Harburn, | 22. Snowdon, |
| 11. Harcourt, | 23. Stanhope. |
| 12. Havelock, | |

But for judicial purposes not provided for by chapter 6 of United to these Revised Statutes, the said Provisional County shall ^{Victoria for} certain judicial continue to be united to and form part of the County of ^{purposes.} Victoria. R. S. O. 1877, c. 5, s. 1 (42).

44.—THE PROVISIONAL JUDICIAL DISTRICT OF Algoma. ALGOMA

Shall consist of the Townships of—

- | | |
|--------------------|----------------------|
| 1. Albert, | 21. Chesley, |
| 2. Allan, | 22. Cobden, |
| 3. Anderson, | 23. Cockburn Island, |
| 4. Archibald, | 24. Coffin, and |
| 5. Assiginack, | Coffin Additional, |
| 6. Awenge, | 25. Creighton, |
| 7. Aweres, | 26. Dawson, |
| 8. Baldwin, | 27. Day, |
| 9. Balfour, | 28. Denison, |
| 10. Barrie Island, | 29. Dennis, |
| 11. Bidwell, | 30. Deroche, |
| 12. Billings, | 31. Dowling, |
| 13. Bridgland, | 32. Drury, |
| 14. Bright and | 33. Ermatinger, |
| Bright Additional, | 34. Esten, |
| 15. Burpee, | 35. Fairbank, |
| 16. Campbell, | 36. Fenwick, |
| 17. Carlyle, | 37. Fisher, |
| 18. Carnarvon, | 38. Galbraith, |
| 19. Cartier, | 39. Gilmor, |
| 20. Cascaden, | 40. Gladstone, |

- | | |
|-----------------|------------------------|
| 41. Gordon, | 82. Otter, |
| 42. Goschen, | 83. Palmer, |
| 43. Gough, | 84. Parke, |
| 44. Gould, | 85. Parkinson, |
| 45. Graham, | 86. Patton. |
| 46. Grasett, | 87. Pennefather, |
| 47. Hallam, | 88. Plummer, and |
| 48. Hart, | Plummer Additional, |
| 49. Haughton, | 89. Prince, |
| 50. Haviland, | 90. Proctor, |
| 51. Herrick, | 91. Rayside, |
| 52. Hilton, | 92. Robinson, |
| 53. Hodgins, | 93. Rose, |
| 54. Howland, | 94. Rutherford, |
| 55. Humboldt, | 95. Ryan, |
| 56. Jarvis, | 96. Salter, |
| 57. Jocelyn. | 97. Sandfield, |
| 58. Johnson, | 98. Scarfe, |
| 59. Kars, | 99. Shakespeare, |
| 60. Kirkwood, | 100. Shedden, |
| 61. Korah, | 101. Sheguiandah, |
| 62. Laird, | 102. Snider, |
| 63. Lefroy, | 103. Spragge, |
| 64. Levack, | 104. St. Joseph, |
| 65. Lewis, | 105. Sault Ste. Marie. |
| 66. Ley, | 106. Striker, |
| 67. Long, | 107. Tarbutt, and |
| 68. Lorne, | Tarbutt Additional, |
| 69. Louise, | 108. Tarentorus, |
| 70. Mack, | 109. Tehkumah, |
| 71. May, | 110. Tennyson, |
| 72. Meredith, | 111. Thessalon River, |
| 73. Merritt, | 112. Thompson, |
| 74. Mills, | 113. Tilley, |
| 75. Morgan, | 114. Trill, |
| 76. Morin, | 115. Tupper, |
| 77. Macdonald, | 116. Vankoughnet, |
| 78. McGiverin, | 117. Victoria, |
| 79. McMahon, | 118. Waters, |
| 80. Montgomery, | 119. Wells, |
| 81. Nairn. | 120. Whitman. |

And the Town of Sault Ste. Marie. (50 V. c. 64).

Together with all the remaining territory included within the following limits:—Commencing at the waters edge of the Georgian Bay of Lake Huron near the most westerly mouth of French River in the production southerly of the east limit of the Township of Humboldt; thence due north along a line formed by the said produced limit, the east limit of the said Township of Humboldt, the limit between timber berths numbered 59 and 67, 60 and 68, 61 and 69, and along the east limits

of the Townships of Waters, Snider and Rayside, and continuing due north to the northerly limit of the Province; thence along the said northerly limit of the Province westerly to the meridian of eighty-five degrees west longitude; thence along the said meridian southerly to the southerly limit of the Province thence along the said southerly limit of the Province, easterly to a point in Lake Huron opposite the southern extremity of the Great Manitoulin Island; thence easterly and north-easterly, so as to include all the Islands in Lake Huron not within the settled limits of any County or District, to the place of beginning. R. S. O. 1877, c. 5, s. 1 (43); 47 V. c. 3, ss. 5 and 8; 47 V. c. 14, s. 1; Proclamation dated 3rd October, 1884; 48 V. c. 20, Preamble; 49 V. c. 19, s. 1.

45.—THE PROVISIONAL JUDICIAL DISTRICT OF Thunder Bay. THUNDER BAY

Shall consist of the Townships of—

- | | |
|---------------|--------------------------|
| 1. Blake, | 13. McTavish, |
| 2. Byron, | 14. Moss, |
| 3. Conmee, | 15. Neebing, and Neebing |
| 4. Crooks, | Additional, |
| 5. Dorion, | 16. Neepigon, |
| 6. Gillies, | 17. O'Connor, |
| 7. Homer, | 18. Oliver, |
| 8. Lybster, | 19. Pic, |
| 9. Lyon, | 20. Paipoonge, |
| 10. Marks, | 21. Pardee, |
| 11. McGregor, | 22. Sibley, |
| 12. McIntyre, | 23. Strange, |

The Town of Port Arthur.

Together with the remaining territory within the Province lying west of the meridian of eighty-five degrees of west longitude.

But such portions of the said District of Thunder Bay as are by this Act included within the limits of the Territorial District of Rainy River, shall, for the purposes of *The Unorganized Territory Act*, continue to form part of the said Territorial District of Rainy River. R. S. O. 1877, c. 5, s. 1 (46); 47 V. c. 14, s. 1; Proclamations dated 3rd Oct., 1884, and 13th January, 1885; 48 V. c. 20, Preamble; 49 V. c. 19, s. 1.

Muskoka.

46.—THE TERRITORIAL DISTRICT OF MUSKOKA

Shall consist of the Townships of—

- | | |
|--------------|-----------------|
| 1. Baxter, | 12. Monck, |
| 2. Brunel, | 13. Morrison, |
| 3. Cardwell, | 14. Muskoka, |
| 4. Chaffey, | 15. Oakley, |
| 5. Draper, | 16. Ridout, |
| 6. Franklin, | 17. Ryde, |
| 7. Freeman, | 18. Sinclair, |
| 8. Gibson, | 19. Stephenson, |
| 9. Macaulay, | 20. Stisted, |
| 10. McLean, | 21. Watt, |
| 11. Medora, | 22. Wood, |

The Town of Gravenhurst (50 V. c. 52).

And the Villages of—

- | | |
|-----------------|-------------------------------|
| 1. Bracebridge, | 2. Huntsville, (49 V. c. 55). |
|-----------------|-------------------------------|

Together with the islands in the Georgian Bay lying west of the said territory and adjacent thereto, and the islands in the River Severn lying northerly of the middle of the main channel of the River Severn and adjacent to the Townships of Baxter, Wood and Morrison.

Muskoka to form part of Co. of Simcoe for certain judicial purposes.

But for all judicial purposes not provided for by *The Unorganized Territory Act*, the said District shall continue to form part of the County of Simcoe. R. S. O. 1877, c. 5, s. 1 (44), *last part*; 47 V. c. 3, ss. 2, 6.

Parry Sound.

47.—THE TERRITORIAL DISTRICT OF PARRY SOUND

Shall consist of the Townships of—

- | | |
|----------------|-----------------|
| 1. Armour, | 23. Laurier, |
| 2. Bethune, | 24. Lount, |
| 3. Blair, | 25. Machar, |
| 4. Brown, | 26. Mills, |
| 5. Burpee, | 27. McConkey, |
| 6. Burton, | 28. McDougall, |
| 7. Carling, | 29. McKellar, |
| 8. Chapman, | 30. McKenzie, |
| 9. Christie, | 31. McMurrich, |
| 10. Conger, | 32. Monteith, |
| 11. Cowper, | 33. Mowat, |
| 12. Croft, | 34. Nipissing, |
| 13. Ferguson, | 35. Patterson, |
| 14. Ferrie, | 36. Perry, |
| 15. Foley, | 37. Pringle, |
| 16. Gurd, | 38. Proudfoot, |
| 17. Hagerman, | 39. Ryerson, |
| 18. Hardy, | 40. Shawanaga, |
| 19. Harrison, | 41. Spence, |
| 20. Himsworth, | 42. Strong, |
| 21. Humphry, | 43. Wallbridge, |
| 22. Joly, | 44. Wilson. |

And the Town of Parry Sound, (50 V. c. 61).

Together with any other territory included within the following description, that is to say :—Commencing at a point where the southerly boundary of the township of Conger intersects the waters of the Georgian Bay, being the south-west corner of the Township of Conger ; thence easterly along the southerly boundary of the townships of Conger and Humphry to the south-east corner of the township of Humphry ; thence northerly along the easterly boundary of Humphry to the north-east corner of Humphry ; thence easterly along the southerly boundaries of the townships of Monteith, McMurrich, Perry and Bethune to the south-east corner of Bethune ; thence northerly along the easterly boundaries of the townships of Bethune, Proudfoot, Joly and Laurier to the south boundary of the township of Himsworth ; thence along the south and east boundaries of Himsworth to the north-east corner of Himsworth ; thence westerly along the northerly boundary of Himsworth to Lake Nipissing ; thence westerly along the main channel of said lake, and along the main channel of French River, and along the southerly boundary of the District of Nipissing to where the westerly boundary of the said District of Nipissing strikes the water's edge of the Georgian Bay ; thence south-easterly along the easterly shore of the said Georgian Bay to the place of beginning, including Parry Island and the islands opposite to and along the shore of the said district.

But for all judicial purposes not provided for by *The Unorganized Territory Act*, the said District shall continue to form part of the County of Simcoe. R. S. O. 1877, c. 5, s. 1 (45), *last part* ; 47 V. c. 3, ss. 3, 6.

Parry Sound to form part of Co. of Simcoe for certain judicial purposes.

48. THE TERRITORIAL DISTRICT OF RAINY RIVER Rainy River.

Shall consist of all that part of the Provisional Judicial District of Thunder Bay, lying west of a line drawn due north and south through the most easterly point of Hunter's Island. 48 V. c. 20, Preamble.

But for all judicial purposes not provided for by *The Unorganized Territory Act*, the said District shall continue to form part of the District of Thunder Bay. 47 V. c. 14, s. 16.

Rainy River to form part of District of Thunder Bay for certain judicial purposes.

49.—THE TEMPORARY JUDICIAL DISTRICT OF NIPISSING

Nipissing.

Shall consist of the Townships of—

- | | |
|-------------|--------------|
| 1. Airey, | 3. Awrey, |
| 2. Appleby, | 4. Badgerow, |

- | | |
|-----------------|------------------|
| 5. Ballantyne, | 34. Hugel, |
| 6. Biggar, | 35. Hunter, |
| 7. Bishop, | 36. Kirkpatrick, |
| 8. Blezard, | 37. Lauder, |
| 9. Bonfield, | 38. Lister, |
| 10. Boulter, | 39. Lorrain, |
| 11. Bower, | 40. Lyell, |
| 12. Boyd, | 41. Mattawan, |
| 13. Broder, | 42. McCraney, |
| 14. Butt, | 43. McKim, |
| 15. Caldwell, | 44. McLaughlin, |
| 16. Calvin, | 45. Merrick, |
| 17. Cameron, | 46. Murchison, |
| 18. Canisbay, | 47. Mulock, |
| 19. Chisholm, | 48. Neelon, |
| 20. Deacon, | 49. Orlig, |
| 21. Dill, | 50. Osler, |
| 22. Devine, | 51. Papineau, |
| 23. Dryden, | 52. Paxton, |
| 24. Dunnet, | 53. Peck, |
| 25. Fitzgerald, | 54. Pentland, |
| 26. Ferris, | 55. Phelps, |
| 27. Field, | 56. Ratter, |
| 28. Finlayson, | 57. Robinson, |
| 29. French, | 59. Sabine, |
| 30. Freswick, | 58. Springer, |
| 31. Grant, | 60. Widdifield, |
| 32. Hagar, | 61. Wilkes, |
| 33. Hawley, | |

Together with any other territory included within the following description:—Commencing at the water's edge of the Georgian Bay, near the most westerly mouth of French river, in the production southerly of the east limit of the township of Humboldt; thence due north along a line formed by said produced limit, the east limit of said township of Humboldt, the limit between timber berths numbered 59 and 67, 60 and 68, 61 and 69, and along the east limits of the townships of Waters, Snider and Rayside and continuing due north to the northerly limit of the Province of Ontario; thence easterly along the said northerly limit to the boundary between Ontario and Quebec; thence along the said boundary between Ontario and Quebec southerly and south-easterly to the north-west corner of the township of Clara; thence southerly and easterly along the westerly and southerly boundaries of the townships of Clara, Maria and Head to the westerly boundary of the township of Rolph; thence southerly along the westerly boundaries of the townships of Rolph, Wylie, McKay and Fraser to the north-east corner of the township of Richards; thence westerly along the northerly boundaries of the townships of Richards and Burns to the north-west corner of the said township of Burns; thence southerly

along the westerly boundary of Burns to the north-east corner of the township of Jones; thence westerly along the northerly boundary of Jones to the north-east corner of the township of Lyell; thence southerly along the easterly boundary of Lyell to the south-east corner of Lyell; thence westerly along the southerly boundaries of the townships of Lyell and Sabine to the easterly boundary of the township of Clyde; thence northerly along the easterly boundaries of the townships of Clyde and Nightingale to the north-east corner of the township of Nightingale; thence westerly along the northerly boundaries of the townships of Nightingale, Lawrence, Livingstone and McClintock to the easterly boundary of the township of Sinclair; thence northerly along the easterly boundary of Sinclair to the southerly boundary of the township of Bethune; thence easterly to the south-east corner of Bethune; thence northerly along the easterly boundaries of the townships of Bethune, Proudfoot, Joly and Laurier, to the south boundary of the township of Himsworth; thence along the southerly and easterly boundaries of Himsworth, to the north-east corner of Himsworth; thence westerly along the northerly boundary of Himsworth to Lake Nipissing; thence westerly along the main channel of said lake and along the main channel of French river, and along the channel which runs north of the more northerly of the two islands on which the town plot of Coponaning has been laid out, to a point where the waters divide into the North channel and the Bad River channel; thence to the northern shore of the North channel; thence along the said northern shore and the waters' edge of the Georgian Bay to the place of beginning. 47 V. c. 3, ss. 1, 6.

2. The express mention herein of certain Towns and Villages as being included in certain Counties or Districts in which they would have been included without such express mention, under the general provisions in that behalf herein contained, shall not prevent the application of such provisions to the cases of Towns and Villages not expressly mentioned. R. S. O. 1877, c. 5, s. 2.

Express mention of towns or villages as included in any county or district not to exclude others not mentioned.

UNITED COUNTIES, ETC.

3. For municipal, judicial and all purposes not otherwise provided for by law, the following Counties, already united, shall continue to form Unions of Counties, that is to say:

United counties.

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;
3. Northumberland and Durham;
4. Prescott and Russell;

Cities united to counties for judicial purposes, but not to be part of counties for municipal purposes.

And for judicial purposes the Cities of—

- | | |
|--------------------|-----------------|
| 1. Toronto, | 7. Kingston, |
| 2. Hamilton, | 8. London, |
| 3. Ottawa, | 9. Guelph, |
| 4. St. Catharines, | 10. St. Thomas, |
| 5. Belleville, | 11. Stratford, |
| 6. Brantford, | |

shall (subject as to the City of Toronto to chapter 16, s. 2 of these Revised Statutes) be respectively united to and form part of the Counties within the limits whereof they are respectively situate; but for municipal purposes the said Cities, and all Towns withdrawn from the jurisdiction of the County, shall not form part of the several Counties in which they are respectively situate. R. S. O. 1877, c. 5, s. 3.

Names of united counties.

4. Each of such Unions of Counties under the name of the United Counties of _____ and _____ (*naming them*), shall for all purposes (except as before excepted), so long as such Counties remain united, have in common, as if one County, all Courts, offices and institutions established by law, pertaining to Counties. R. S. O. 1877, c. 5, s. 4.

COURTS IN COUNTIES, ETC.

Courts to be held as formerly.

5. All Courts shall continue to be held in and for the said Counties, United Counties and Districts according to law and the statutes relating to such Courts respectively. R. S. O. 1877, c. 5, s. 5.

COURT HOUSES—GAOLS—SCHOOL HOUSES.

The property, officers, &c., continued.

6. The Court Houses and Gaols, High School Houses, and all other property, real and personal, and all the offices and officers of the Counties, United Counties and Districts existing at the time this Act comes into force, shall belong to and continue in the Counties, United Counties and Districts respectively of the like names under this Act, and as respects such Unions of Counties, until the dissolution thereof under the provisions of *The Municipal Act*. R. S. O. 1877, c. 5, s. 6.

BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND RIVERS.

Limit of townships bounded by certain lakes and rivers.

7. The limits of all the Townships lying on the River St. Lawrence, Lake Ontario, the River Niagara, Lake Erie, the River Detroit, Lake St. Clair, the River St. Clair, Lake Huron, the River St. Mary's and Lake Superior shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each Township respectively; and unless herein otherwise provided, such Townships shall also include all the islands, the whole or the greater part of which are comprised within the said outlines so prolonged. R. S. O. 1877, c. 5, s. 7; 49 V. c. 16, s. 4.

Limits of townships on the Ottawa.

8. The limits of the Townships lying on the River Ottawa shall in like manner extend to the boundary between the Provinces of Ontario and Quebec. R. S. O. 1877, c. 5, s. 8.

9. The limits of the Townships in the County of Glengarry shall in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the River St. Lawrence, and unless herein otherwise provided, shall also include all the islands, the whole or the greater part of which are comprised within the outlines of the said Townships so prolonged. R. S. O. 1877, c. 5, s. 9.

Limits of townships in Glengarry.

10. The limits of the Townships on the Bay of Quinté, the River Trent and its lakes, Lake Simcoe, the River Severn, the River Rideau and its lakes, the River Thames, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, shall in like manner extend to the middle of the said lakes and bays, and to the middle of the main channels of the said rivers respectively, and unless herein otherwise provided, shall also include all the islands, the whole or the greater part of which are comprised within the outlines of the said Townships so prolonged. R. S. O. 1877, c. 5, s. 10.

Limits of townships on Bay of Quinté and on other bays, lakes and rivers.

11. The last preceding four sections shall not extend to any islands or parts of islands which are Townships by themselves, or which have been expressly included in other Townships in the original surveys and plans thereof remaining of record in the office of the Commissioner of Crown Lands, or by statute, but the same shall remain parts of such Townships respectively. R. S. O. 1877, c. 5, s. 11.

The last four sections not to extend to islands being townships of themselves.

NEW TOWNSHIPS.

12. All tracts of land not already included in any Township, from time to time by proclamation erected into Townships, shall be subject to and have the benefit of all enactments and provisions of law to which other Townships are subject or entitled, unless clearly inapplicable to such new Townships. R. S. O. 1877, c. 5, s. 12.

New townships.

13. Subject to the provisions of *The Municipal Act*, the Lieutenant-Governor may, by Order in Council, issue a proclamation under the Great Seal of the Province, to have force of law from a day to be named therein, and thereby constitute Townships and Counties, and Unions of Townships and Counties in those parts of Ontario in which Townships and Counties, or Unions thereof, have not been constituted, and may fix the metes and boundaries thereof. R. S. O. 1877, c. 5, s. 13.

Lieutenant-Governor may constitute townships, counties and unions, etc.

GORES OF LAND.

14. The Lieutenant-Governor may, by proclamation, annex any gore or small tract of land not forming part of any Township, to any Township, or partly to each of more Townships than one, to which it may be adjacent, and such gore or tract shall thenceforward for all purposes form part of the Township to which it is annexed. R. S. O. 1877, c. 5, s. 14.

Lieut.-Governor may annex gores to adjacent townships.

CHAPTER 6.

An Act respecting the Provisional County of Haliburton.

TOWNSHIPS CONSTITUTING PROVISIONAL COUNTY, s. 1.	Returns of convictions, s. 9.
UNITED TOWNSHIPS OF GLAMORGAN, CARDIFF AND MONMOUTH CONTINUED, s. 2.	Gaols, &c., ss. 10-12, 14.
RIGHTS, POWERS AND LIABILITIES OF THE PROVISIONAL COUNTY AND ITS COUNCIL, ss. 3-5.	Gaoler and constables, s. 13.
COMPOSITION AND PLACE OF MEETING OF COUNCIL, s. 5.	Expenses of Administration of Justice, s. 14.
ADMINISTRATION OF JUSTICE—Annexed to Victoria for judicial purposes, s. 6.	Division Courts, ss. 15-18.
Justices of the Peace, s. 7.	APPEALS IN ASSESSMENT CASES, s. 19.
Appeals from Justices, s. 8.	REGISTRARS AND REGISTRATION OF INSTRUMENTS AFFECTING LAND, ss. 20-22.
	REGISTRATION OF CHATTEL MORTGAGES, s. 23.
	PROVISIONS RELATIVE TO THE ESTABLISHMENT AS A COUNTY, ss. 24-27.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Limits of provisional county of Haliburton.

1. The Townships of Lutterworth, Anson, Hindon, Snowdon, Glamorgan, Monmouth, Cardiff, Minden, Dysart, Dudley, Harcourt, Stanhope, Guilford, Harburn, Bruton, Sherborne, Havlock, Eyre, Clyde, McClintock, Livingstone, Lawrence and Nightingale, shall continue to form and be a Provisional County by the name of the Provisional County of Haliburton, and the inhabitants thereof shall continue to be a Provisional County Corporation, to be styled "The Corporation of the Provisional County of Haliburton." R. S. O. 1877, c. 6, s. 1.

United townships of Glamorgan, Cardiff and Monmouth.

2. The Townships of Glamorgan, Cardiff, and Monmouth shall continue to form a separate Municipality under the name of "The United Townships of Glamorgan, Cardiff and Monmouth," until separated according to law. R. S. O. 1877, c. 6, s. 2.

Rights, liabilities and powers of the provisional county corporation and council.

3. The said Provisional County and the Corporation and Council thereof shall have and possess respectively all the rights, powers, liabilities and incidents of a County, County Corporation and County Council; and the Municipal Law and

Statutes of Ontario, applicable to Counties, County Corporations and County Councils, and the members of such Councils, shall apply to the said Provisional County, except where inconsistent with this Act. R. S. O. 1877, c. 6, s. 3.

4.—(1) The authority of the Corporation of the Provisional County to grant aid to any railway company is hereby limited to such companies as by their special Acts are authorized to apply for aid, and the same shall be granted under and subject to such authorities and provisions as may be contained in the special Act under which the application is made. Power to aid railways.

(2) No by-law for granting aid by way of bonus or otherwise to any railway company, shall be valid, unless after one month from the time when it was duly passed, it is approved by the Lieutenant-Governor in Council.

(3) It shall not be necessary in any such by-law to set out the amount of ratable property. R. S. O. 1877, c. 6, s. 4.

5. The Reeves and Deputy-Reeves of the Municipalities within the Provisional County shall compose the Council thereof; and the meetings of the Council shall be held at such place within the County as the Lieutenant-Governor may name as the place where the Registry Office shall be kept. R. S. O. 1877, c. 6, s. 5. Composition and meetings of the council.

ADMINISTRATION OF JUSTICE.

6. The said Provisional County shall, for judicial purposes not provided for by this Act, be united to and form part of the County of Victoria; and the various provisions of the law as to the holding of Courts, and as to the officers of such Courts, and respecting judicial process and proceedings, including the selection of jurors, applicable to Unions of Counties, shall apply to the judicial union except where inconsistent with this Act. The Judge of the County Court of the County of Victoria shall hold the Division Courts in the said Provisional County. R. S. O. 1877, c. 6, s. 6; 49 V. c. 2, s. 1. Annexation for certain judicial purposes to county of Victoria.

7.—(1) Justices of the Peace appointed for the County of Peterborough, for the County of Victoria, or for the District of Nipissing, respectively, who at the time of the formation of the Provisional County resided within the said Provisional County shall be Justices of the Peace for the Provisional County of Haliburton, and shall not act as Justices of the Peace for the County of Peterborough, or Victoria, or for the District of Nipissing, except that the Justices of the Peace of the County of Victoria when sitting in the General Sessions of the Peace shall have jurisdiction in Haliburton; and save as aforesaid, no Justice of the Peace of either of the said Counties of Peter- Justices of the Peace.

borough and Victoria shall, as such, have any jurisdiction within Haliburton.

(2) The Justices of the Peace for Haliburton shall be entitled to sit in the General Sessions held for the said judicial union. R. S. O. 1877, c. 6, s. 10.

Appeal from
decision of
justices of the
peace.

8. Where, according to the general laws of this Province, in matters within the legislative authority of the Legislature of this Province, an appeal lies from the decision of any Justice or Justices of the Peace, to the General Sessions of the Peace, the appeal, in cases arising in the said Provisional County, shall lie to, and may be brought before, and heard and determined by the Court of General Sessions of the Peace for the County of Victoria, and shall be claimed, and allowed, and prosecuted in the same manner and within the same period as if the same had arisen within the limits of the said County. R. S. O. 1877, c. 6, s. 12; 49 V. c. 2, s. 3.

Returns of
convictions.

9. All returns of convictions required by law to be made by any Justice of the Peace for the Provisional County shall be made to the Clerk of the Peace for the judicial union. R. S. O. 1877, c. 6, s. 13.

Erection of
gaols.

10. The Lieutenant-Governor may from time to time direct that one or more suitable gaols or lock-ups shall be provided by the Commissioner of Public Works, in the Provisional County. R. S. O. 1877, c. 6, s. 14.

Gaols in Haliburton to be
Common Gaols
of Haliburton
and Victoria.

11. Every gaol or lock-up erected in the Provisional County of Haliburton under the authority of the Lieutenant-Governor, shall be a Common Gaol of the Provisional County, and of the County of Victoria, for the safe custody of persons charged with the commission, within the Provisional County, of crimes, or with the commission therein of offences against any statute of this Province, or against any municipal by-law, who may not have been finally committed for trial; or for the safe custody of persons finally committed for trial, charged as aforesaid, who are to be tried within the Provisional County; or for the confinement of persons sentenced within the Provisional County for crimes, or for offences aforesaid, for periods not exceeding one month; or for the confinement of persons sentenced as aforesaid for periods exceeding one month, until such persons can be conveniently removed to the Gaol at Lindsay, or other lawful prison to which they are sentenced. R. S. O. 1877, c. 6, s. 15.

The last section not to prevent committal to the gaol at Lindsay.

12. Nothing contained in the last section shall be construed to prevent any Court, or Magistrate from directing the committal, either for safe custody, or for punishment, of any

person whom it may be considered expedient to commit to the Common Gaol at Lindsay. R. S. O. 1877, c. 6, s. 16; 49 V. c. 2, s. 4.

13. The Judge of the County Court of the County of Victoria shall have authority to appoint a gaoler and such constables as may be necessary in the said Provisional County; and the salary of the gaoler shall be provided by the Council, subject to the proper proportion thereof being repaid, according to the rule governing in other Counties. R. S. O. 1877, c. 6, s. 17. 49 V. c. 2, s. 5.

Appointment of gaoler and constables; salary of gaoler.

14. The Provisional County shall bear and pay to the municipal County of Victoria, its just share of all charges and expenses of repairing and maintaining the Court house and Gaol at Lindsay, and of the care and maintenance of prisoners, and the other expenses of administration of justice, in the same manner as Towns separated from the municipal jurisdiction of Counties; and the provisions of the Municipal Law for the determination of the compensation to be paid, which are applicable between Counties and separate Towns, shall apply to the said municipal County and the said Provisional County. R. S. O. 1877, c. 6, s. 18.

Contribution by Haliburton towards expenses of administration of justice, &c.

Division Courts.

15. The provisions of law from time to time in force relating to Division Courts in Counties and the officers thereof shall apply to the Division Courts of the Provisional County, except where inconsistent with this Act. R. S. O. 1877, c. 6, s. 19; 49 V. c. 2, s. 6.

General provisions of law to apply.

16. The Division Courts wholly within the limits of the Provisional County shall continue Division Courts thereof, and territory belonging to a Division Court not wholly within the Provisional County shall continue to belong to such Division Court until a change is made under the next section. R. S. O. 1877, c. 6, s. 20.

Limits of Division Courts.

17. The Lieutenant-Governor in Council may divide the Provisional County into as many Division Court Divisions as he may consider requisite, and may number the same consecutively, and may from time to time alter the number, limits and extent of every Division. R. S. O. 1877, c. 6, s. 21.

Power to alter divisions of Division Courts.

18. A Court shall, unless the Lieutenant-Governor in Council otherwise directs, be held in every Division once in every three months, or oftener, at the discretion of the Judge who may appoint, and may from time to time alter the times and places within the Divisions, when and at which such Courts shall be holden, subject to the approval of the Lieutenant-Governor in Council. R. S. O. 1877, c. 6, s. 22; 49 V. c. 2, s. 7.

Times and places for holding Court in each division.

APPEALS IN ASSESSMENT CASES.

Appeal from
Court of Revi-
sion to Judge.

19. An appeal shall lie from the decision of the Court of Revision of any Municipality within the Provisional County to the Judge of the County Court of the County of Victoria. 49 V. c. 2, s. 8.

REGISTRARS AND REGISTRATION OF DEEDS.

Registrar of
deeds; regis-
trations.

20. The Lieutenant-Governor may appoint a Registrar of deeds, in and for the Provisional County, who shall hold office during pleasure; and the Registrar shall register all deeds and other conveyances and instruments relating to lands, situate in any part of the Provisional County, and laid out and surveyed by the Crown. R. S. O. 1877, c. 6, s. 24.

Registry office.

21. The said Registrar shall keep his office in a place to be named for that purpose in his commission, or at such other place as may be from time to time appointed by the Lieutenant-Governor in Council; and his duties shall be the same as the duties of other Registrars under the registry laws of this Province; and his fees shall be the same as those appointed and established by the registry laws. R. S. O. 1877, c. 6, s. 25.

Duties and
fees of Regis-
trars, etc.

Securities by
Registrars.

22. The provisions of law relating to securities to be given by Registrars in other parts of Ontario shall apply to the Registrar of deeds of the said Provisional County, except that the covenant to be given by such Registrar shall be for such an amount as the Lieutenant-Governor in Council may determine. R. S. O. 1877, c. 6, s. 26.

REGISTRATION OF CHATTEL MORTGAGES.

Registry of
chattel mort-
gages and bills
of sale

23. In the case of any instrument mentioned in *The Act respecting Mortgages and Sales of Personal Property*, made or executed after the 25th day of March, 1886, within the Provisional County, or affecting personal property therein, the same shall be registered in the office of the Clerk of the First Division Court of the Provisional County and registration if made within seven days after the execution of the instrument shall be sufficient. 49 V. c. 2, s. 9.

PROVISIONS FOR ESTABLISHMENT AS A COUNTY.

Power to erect
court-house,
gaol and regis-
try office.

24. The Council of the Provisional County may acquire the necessary property, at any place within the County that the Council may determine, on which to erect a Court-House, Gaol and Registry Office, and may erect a Court-House, Gaol and Registry Office thereon adapted to the wants of the County, and in conformity with any statutory or other rules and regulations respecting such buildings, and may pass by-laws for such purposes. R. S. O. 1877, c. 6, s. 28.

25. After a sufficient Court-House, Gaol and Registry Office have been built in such Provisional County, the Lieutenant-Governor may, upon application of the Council, require for the Provisional County the appointment of a Judge, and shall appoint a Sheriff, a Coroner or Coroners, a Clerk of the Peace, a Clerk of the County Court, a Registrar, and at least twelve Justices of the Peace, and shall provide in the commissions that the appointments are to take effect on the day the County of Haliburton becomes disunited from the judicial union. R. S. O. 1877, c. 6, s. 29.

Appointment of County Judge, Sheriff, and other officers.

26. After the appointments are made, the Lieutenant-Governor shall, by proclamation, erect the said Provisional County into a County, and shall separate the Provisional County from the County of Victoria, and shall declare that such separation shall take effect at a day to be named in the proclamation, and on that day the Courts and officers of the said union (including Justices of the Peace) shall cease to have any jurisdiction in the County of Haliburton, subject, however, to the exceptions in the next section contained. R. S. O. 1877, c. 6, s. 30.

Power to erect into a separate county.

27. The provisions of law, with reference to judicial proceedings, applicable in the case of a separation of a Junior from a Senior County, shall apply in the case of the separation of the Provisional County from the County of Victoria. R. S. O. 1877, c. 6, s. 31.

Judicial proceedings on separation.

SECTION III.

LEGISLATIVE ASSEMBLY AND ELECTIONS.

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- CHAP. 7.—REPRESENTATION IN THE LEGISLATIVE ASSEMBLY, p. 46.
 8.—VOTERS' LISTS, p. 60.
 9.—ELECTIONS AND PREVENTION OF CORRUPT PRACTICES, p. 91.
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CHAPTER 7.

An Act respecting the Representation of the People in the Legislative Assembly.

NUMBER OF ELECTORAL DISTRICTS, s. 1.	ELECTORAL DISTRICT TO BE- LONG, ss. 7-13.
COUNTIES, CITIES AND TOWNS, s. 2.	ELECTORAL DISTRICTS—
COUNTIES AND RIDINGS TO INCLUDE PLACES WITHIN LIMITS NOT BEING PART OF OTHER ELECTORAL DIS- TRICTS, s. 3.	Counties divided into Ridings, s. 14.
GORES OF TOWNSHIPS, s. 4.	Counties and tracts of territory forming Electoral Districts, s. 15.
REPRESENTED CITIES, ss. 5, 6, 15 (88).	Each Electoral District, except the City of Toronto, to be repre- sented by one member, s. 15.
TOWNS AND VILLAGES, TO WHAT	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. The Province shall, for the purpose of the election of members to serve in the Legislative Assembly, be divided into the eighty-eight Electoral Districts set forth in this Act. R. S. O. 1877, c. 8, s. 1; 48 V. c. 2, s. 7.

2. Except in so far as it is otherwise provided in this Act, the Counties herein referred to are those mentioned in chapter 5 of these Revised Statutes (or other statutes in force in the Province, concerning Territorial Divisions); and the Cities and Towns herein referred to are those mentioned in the statutes or proclamations, describing or defining the said Cities and Towns, for municipal purposes. R. S. O. 1877, c. 8, s. 2.

3. For the purposes of this Act, the Counties and Ridings herein mentioned include every place lying within their respective limits, and not expressly included by this Act within the limits of some other Electoral District. R. S. O. 1877, c. 8, s. 3.

Electoral districts to be eighty-eight.

Counties, cities and towns intended in this Act.

Counties to include every place within their limits not included in some other district.

4. All augmentations or gores of Townships not specially mentioned in this Act, shall be considered as forming part of the County or Riding in which the principal part of such locality is situate,—unless it is otherwise ordered in some statute in force. Augmentations and gores of townships.
R. S. O. 1877, c. 8, s. 4.

5. The several Cities which under this Act are entitled to elect a member or members to represent them respectively in the Legislative Assembly, shall not, for the purpose of representation in the Legislative Assembly, be deemed to form part of the Counties or Ridings within the limits whereof they respectively lie. Represented cities not to form, for the purposes of this Act, part of the counties within which they lie.
R. S. O. 1877, c. 8, s. 5.

6. Where a territory belongs, or hereafter is added, for municipal purposes, to a City which is an Electoral District, such Electoral District shall include the territory so belonging or added for municipal purposes. Electoral limits of cities.
R. S. O. 1877, c. 8, s. 6.

7. Where a territory belongs, or hereafter is added, for municipal purposes to a Town or Village belonging to an Electoral District other than that to which such territory previously belonged; or where a Town with additional territory is erected into a City, or a Village with additional territory is erected into a Town, the territory so belonging or added for municipal purposes, shall belong to the Electoral District of which the Town or Village forms a part. Territory added to town or village.
Formation of cities and towns
R. S. O. 1877, c. 8, s. 8.

8. Every Town and Incorporated Village not expressly attached by this or any other Act of the Legislature to an Electoral District, shall, for electoral purposes, be taken as part of the County to which such Town or Village belongs for municipal purposes, and in case the County is divided into Ridings, such Town or Village shall be part of that Riding to which it is adjacent, or within the boundaries of which it is situate. Towns and villages not expressly attached to any electoral district.
R. S. O. 1877, c. 8, s. 9.

9.—(1) Except in the case in the following sub-sections to this section mentioned, every Town or Incorporated Village lying within the boundaries of two or more Ridings of a County, and not expressly included within some Electoral District, shall belong to that Riding which, by the census then last taken under the authority of the Government of the Dominion of Canada and published in the *Canada Gazette*, had the smaller population. For the purposes of this section, every Electoral District to which any portion of a County is attached, shall be deemed a Riding of that County. Town or village composed of portions of two ridings.

(2) In the case of the Village of Stouffville, inasmuch as it was formed out of parts of the Township of Markham, in the East Riding of York, and the Township of Whitchurch, in the North Riding of York, and if the incorporation of the Village had not taken place, the electors who are entitled to vote Village of Stouffville divided between E. and N. Ridings of York as to voters on real estate.

in respect to real estate in the Village, would have been entitled to vote in one of the two Ridings: and inasmuch as it is desired by the electors that they should be allowed to vote in the same Riding in which they would have voted if such incorporation had not taken place: Therefore it is enacted that for the purpose of elections to the Legislative Assembly, the electors shall be entitled to vote in the same Riding in which they would have voted if the incorporation had not taken place.

Income voters. (3) In the case of income franchise voters and wage-earners the said voters shall be entitled to vote in that one of the said two Ridings within which they would respectively be resident if the said incorporation had not taken place.

Two lists to be prepared. (4) The Clerk of the Corporation of the said Village of Stouffville shall, in the preparation of the voters' lists, prepare two separate voters' lists, having regard to the two separate Ridings within which the said electors, under these sub-sections are entitled to vote. R. S. O. 1877, c. 8, s. 10.

Town or village composed of parts of two counties. **10.** In case any Town or Incorporated Village situate in part within two or more Counties, is attached to a Union of Counties for municipal purposes, the provisions of the next preceding two sections of this Act shall be applied as if such Union constituted one County, and as if the Electoral Districts into which the Union is divided were Ridings of that County; and in case a Town, situate as in either of the said next preceding two sections mentioned, is not attached to a County or Union of Counties for municipal purposes, the provisions of the said sections and of this section shall apply thereto, except that wherever in the said sections the word "municipal" occurs, the word "judicial" shall be substituted therefor. R. S. O. 1877, c. 8, s. 11.

Villages or towns lying in more than one Riding. **11.** In order to determine the riding or other electoral division to which, under the preceding two sections a Village or Town belongs, the population by the then last census of that portion of the territory of the Village or Town in question which was within each Riding or other Electoral District shall be computed as part of the population of such Riding or other Electoral District, unless the population of such Village or Town appears in the census, in which case the population shall not be computed in any of the Electoral Ridings or Districts. This section shall apply to Villages heretofore incorporated as well as to Villages or Towns which may be hereafter incorporated. 42 V. c. 4, s. 9.

Sec. 9, not to apply in certain cases. **12.—(1)** In case a Village hereafter becomes incorporated in respect of which it may appear to the Lieutenant-Governor in Council to be impossible to ascertain from the census the population of the territory comprising the Electoral Districts

within which the Village lies, the Lieutenant-Governor in Council may, by proclamation, declare that by reason of such impossibility section 9 cannot be applied to the Village; and after the proclamation issues the electors entitled to vote in the Village shall be entitled to vote in the Riding or Electoral District in which they would be entitled to vote if the village had not become incorporated. 42 V. c. 4, s. 10 (1).

(2) In such case a change of residence from one part of the village to another, shall not deprive a person whose name is in the voters' list of his right to vote; and in the oath to be administered to a person desiring to vote, the words "and that you are still actually and in good faith a resident of and domiciled within this Village," shall be substituted for the words, "and are now actually and in good faith a resident of and domiciled within this electoral district." 50 V. c. 8, Sched.

Voter not deprived of vote by change of residence.

13. The express mention herein of certain Towns and Villages as being included in certain Counties and Ridings, in which they would have been included without such express mention, under the general provisions in that behalf herein contained, shall not prevent the application of such provisions to the cases of Towns and Villages not expressly mentioned herein. R. S. O. 1877, c. 8, s. 12.

Mention of towns or villages as included in any county not to exclude others not mentioned.

ELECTORAL DISTRICTS.

14. The following Counties shall be divided into Ridings for the purpose of representation in the Legislative Assembly, and each of the Ridings shall form an Electoral District. R. S. O. 1877, c. 8, s. 14.

Counties divided into Ridings.

THE COUNTY OF BRANT shall be divided into two Ridings, Brant, to be called respectively the North Riding and the South Riding.

1. The North Riding shall consist of the Townships of South Dumfries, Onondaga, Tuscarora, the northerly portion (hereinafter described) of the Township of Brantford, and the Town of Paris.
2. The South Riding shall consist of the Townships of Burford, Oakland, the southerly portion of the Township of Brantford, and the City of Brantford.

The said northerly portion of the Township of Brantford shall include and consist of all that portion of the said Township which lies on the northerly side of the Grand River: And the said southerly portion of the said Township shall include and consist of all the remainder of the said Township of Brantford. R. S. O. 1877, c. 8, s. 14 (1, 2); 48 V. c. 2, s. 10 (7).

THE COUNTY OF BRUCE shall be divided into three Ridings, Bruce, to be called respectively the South Riding, the Centre Riding, and the North Riding.

3. The South Riding shall consist of the Townships of Brant, Carrick, Culross and Kinloss, the Town of Walkerton, and the Villages of Lucknow and Teeswater.
4. The Centre Riding shall consist of the Townships of Greenock, Kincardine, Elderslie and Huron, the Town of Kincardine, and the Villages of Paisley and Chesley.
5. The North Riding shall consist of the Townships of Bury St. Edmunds, Lindsay, Eastnor, Albemarle, Amabel, Arran, Saugeen and Bruce, and the Villages of Southampton, Port Elgin, Wiarton, Tara and Tiverton. 48 V. c. 2, s. 10 (1).

Durham.

THE COUNTY OF DURHAM shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

6. The East Riding shall consist of the Townships of Cavan, Manvers, and Hope, the Town of Port Hope, and the Village of Millbrook.
7. The West Riding shall consist of the Townships of Clarke, Darlington, and Cartwright, the Town of Pownmanville, and the Village of Newcastle. R. S. O. 1877, c. 8, s. 14 (5, 6).

Elgin.

THE COUNTY OF ELGIN shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

8. The East Riding shall consist of the Townships of Bayham, Malahide, Yarmouth, South Dorchester, the Town of Aylmer, and the Villages of Port Stanley and Vienna.
9. The West Riding shall consist of the Townships of Southwold, Dunwich, and Aldborough, and the City of St. Thomas. R. S. O. 1877, c. 8, s. 14 (7, 8); 48 V. c. 2, s. 10 (18).

Essex.

THE COUNTY OF ESSEX shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

10. The North Riding shall consist of the Townships of Anderdon, Rochester, Maidstone, Sandwich East and Sandwich West, the Towns of Windsor and Sandwich, and the Village of Belle River.
11. The South Riding shall consist of the Townships of Mersea, Gosfield North, Gosfield South, Colchester North, Colchester South, Malden, Pelée, and Tilbury West, the Town of Amherstburg, and the Villages of Essex Centre, Kingsville, and Leamington. R. S. O. 1877, c. 8, s. 14 (9, 10); 48 V. c. 2, s. 10 (20); 50 V. c. 51.

THE COUNTY OF GREY shall be divided into three Ridings, to Grey. be called respectively the North Riding, the South Riding, and the Centre Riding.

12. The North Riding shall consist of the Townships of St. Vincent, Sydenham, Derby, Keppel and Sarawak, and the Towns of Owen Sound and Meaford.
13. The South Riding shall consist of the Townships of Bentinck, Glenelg, Normanby, Proton and Egremont, the Town of Durham and the Village of Dundalk.
14. The Centre Riding shall consist of the Townships of Osprey, Collingwood, Artemesia, Sullivan, Euphrasia, and Holland, and the Town of Thornbury. R. S. O. 1877, c. 8, s. 14 (11-13); 48 V. c. 2, s. 10 (17); 50 V. c. 68.

THE COUNTY OF HASTINGS shall be divided into three Rid- Hastings ings, to be called respectively the North Riding, the East Riding, and the West Riding.

15. The North Riding shall consist of the Townships of Rawdon, Huntingdon, Elzevir, Madoc, Marmora, Lake, Tudor, Bangor, Carlow, Cashel, Dungannon, Faraday, Grimsthorpe, Herschel, Limerick, Mayo, McClure, Monteagle, Wicklow, Wollaston, Sabine, Lyell, Airy, Murchison, and Robinson, the Villages of Madoc and Stirling, and any other surveyed Townships lying to the north of the said North Riding.
16. The East Riding shall consist of the Townships of Thurlow, Tyendinaga, and Hungerford, and the Village of Deseronto.
17. The West Riding shall consist of the City of Belleville, the Township of Sydney, and the Village of Trenton. R. S. O. 1877, c. 8, s. 14 (14-16).

THE COUNTY OF HURON shall be divided into three Rid- Huron ings, to be called respectively the South Riding, the East Riding, and the West Riding.

18. The South Riding shall consist of the Townships of Tuckersmith, Usborne, Stephen, Hay, and Stanley, and that portion of the Township of Goderich south of the line known as "the Cut Line" and Huron Road, the Town of Seaforth, and the Villages of Bayfield and Exeter.
19. The East Riding shall consist of the Townships of Howick, Grey, Morris, McKillop, Turnberry, and that part of Hullett which lies east of the road commonly called the Gravel Road, and the Villages of Brussels and Wroxeter.
20. The West Riding shall consist of the Townships of Ashfield, Wawanosh (East and West), Colborne, and

that part of Hullett which lies west of the road commonly called the Gravel Road, and that part of the Township of Goderich north of the said Huron Road and "Cut Line," and the Towns of Goderich and Clinton, and the Villages of Blythe and Wingham. R. S. O. 1877, c. 8, s. 14 (17-19); 48 V. c. 2, s. 10 (22).

Kent.

THE COUNTY OF KENT shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

21. The East Riding shall consist of the Townships of Zone, Camden (with the Gore thereof), Orford, Howard, and Harwich, the Town of Bothwell, and the Villages of Blenheim, Dresden, Ridgetown, and Thamesville.
22. The West Riding shall consist of the Townships of Romney, East Tilbury, Raleigh, Dover East, Dover West, and Chatham, the Town of Chatham, and the Villages of Tilbury Centre and Wallaceburg. R. S. O. 1877, c. 8, s. 14 (20, 21); 50 V. c. 70, s. 9.

Lambton.

THE COUNTY OF LAMBTON shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

23. The East Riding shall consist of the Townships of Bosanquet, Warwick, Plympton, Brooke, and Euphemia, and the Villages of Alvinston, Arkona, Thedford, Wyoming, Watford, and Forest.
24. The West Riding shall consist of the Townships of Sombra, Dawn, Moore, Enniskillen, and Sarnia, the Towns of Sarnia, and Petrolia, and the Village of Oil Springs, and Point Edward. R. S. O. 1877, c. 8, s. 14 (22, 23).

Lanark.

THE COUNTY OF LANARK shall be divided into two Ridings to be called respectively the North Riding and the South Riding.

25. The North Riding shall consist of the Townships of Sherbrooke North, Dalhousie, Lanark, Ramsay, Lavant, Darling, and Pakenham, the Town of Almonte, and the Villages of Carleton Place and Lanark.
26. The South Riding shall consist of the Townships of Montague, Elmsley North, Burgess North, Sherbrooke South, Beckwith, Drummond, Bathurst, and the Towns of Perth and Smith's Falls. R. S. O. 1877, c. 8, s. 14 (24, 25).

Middlesex.

THE COUNTY OF MIDDLESEX shall be divided into three Ridings, to be called respectively the North Riding, the East Riding and the West Riding.

27. The North Riding shall consist of the Townships of McGillivray, Biddulph, Williams East, Williams West,

Adelaide and Lobo, the Town of Parkhill, and the Villages of Ailsa Craig, and Lucan.

28. The East Riding shall consist of the Townships of West Nissouri, North Dorchester, Westminster and London and the Village of London West.
29. The West Riding shall consist of the Townships of Delaware, Caradoc, Metcalf, Mosa and Ekfrid, the Town of Strathroy, and the Villages of Glencoe, Newbury and Wardsville. R. S. O. 1877, c. 8, s. 14 (29-31).

THE COUNTY OF NORFOLK shall be divided into two Ridings, Norfolk. to be called respectively the North Riding and the South Riding.

30. The North Riding shall consist of the Townships of Middleton, Townsend and Windham, the Town of Simcoe, and the Village of Waterford.
31. The South Riding shall consist of the Townships of Charlotteville, Houghton, Walsingham and Woodhouse, with the Gore thereof, and the Village of Port Dover. R. S. O. 1877, c. 8, s. 14 (32, 33).

THE COUNTY OF NORTHUMBERLAND shall be divided into two Northumber- Ridings, to be called respectively the East Riding and the West Riding. land.

32. The East Riding shall consist of the Townships of Cramahe, Brighton, Murray, Seymour and Percy and the Villages of Brighton, Campbellford, Colborne, and Hastings.
33. The West Riding shall consist of the Townships of Hamilton, Haldimand, Alnwick and the Town of Cobourg. R. S. O. 1877, c. 8, s. 14 (34, 35).

THE COUNTY OF ONTARIO shall be divided into two Ridings, Ontario. to be called respectively the North Riding and the South Riding.

34. The North Riding shall consist of the Townships of Uxbridge, Brock, Scott, Thorah, Marah, and Rama, the Town of Uxbridge, and the Villages of Beaverton and Cannington.
35. The South Riding shall consist of the Townships of Whitby, East Whitby, Reach, Scugog, and Pickering, the Towns of Whitby and Oshawa, and the Village of Port Perry. R. S. O. 1877, c. 8, s. 14 (36, 37); 48 V. c. 2, s. 10 (21).

THE COUNTY OF OXFORD shall be divided into two Ridings, Oxford. to be called respectively the North Riding and the South Riding.

36. The North Riding shall consist of the Townships of East Nissouri, East Zorra, West Zorra, Blandford and

Blenheim, the Town of Woodstock, and the Village of Embro.

37. The South Riding shall consist of the Townships of North Oxford, West Oxford, East Oxford, North Norwich, South Norwich and Dereham, the Towns of Ingersoll and Tilsonburg, and the Village of Norwich. R. S. O. 1877, c. 8, s. 14 (38, 39).

Perth.

THE COUNTY OF PERTH shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

38. The North Riding shall consist of the Townships of Wallace, Elma, Ellice, Mornington and North Easthope, the City of Stratford, the Town of Listowel, and the Village of Milverton.
39. The South Riding shall consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Logan and Hibbert, and the Towns of Mitchell and St. Mary's. R. S. O. 1877, c. 8, 14 (40, 41); 48 V. c. 2, s. 10 (24).

Peterborough.

THE COUNTY OF PETERBOROUGH shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

40. The East Riding shall consist of the Townships of Ottonabee, Douro, Asphodel, Dummer, Belmont, Methuen, Burleigh, Anstruther and Chandos, and the Villages of Ashburnham and Norwood.
41. The West Riding shall consist of the Townships of South Monaghan, North Monaghan, Smith, Ennismore, Harvey, Galway and Cavendish, the Town of Peterborough, and the Village of Lakefield. R. S. O. 1877, c. 8, s. 14 (42, 43).

Renfrew.

THE COUNTY OF RENFREW shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

42. The North Riding shall consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria and Clara, the Town of Pembroke, and any surveyed Townships lying north-westerly of the said North Riding.
43. The South Riding shall consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, Hagarty, Richards, Sherwood, Burns and Jones, and the Villages of Arnprior and Renfrew. R. S. O. 1877, c. 8, s. 14 (44, 45).

That portion of the County of Simcoe which is not hereinafter assigned to the Electoral Districts of Cardwell, Muskoka and Parry Sound, shall be divided into three Ridings, to be called respectively the East Riding, the Centre Riding, and the West Riding.

44. The East Riding shall consist of the Townships of Tay, Orillia, Matchedash, Medonte and Oro, the Towns of Orillia and Penetanguishene, and the Village of Midland.
45. The Centre Riding shall consist of the Townships of Tiny, Vespra, Flos, and Sunnidale, and the Town of Barrie.
46. The West Riding shall consist of the Townships of Tosorontio, Essa and Nottawasaga, the Town of Collingwood, and the Villages of Stayner and Alliston.

48 V. c. 2, s. 10 (3).

The County of Victoria shall be divided into two Ridings, to be called respectively the West Riding and the East Riding.

47. The West Riding shall consist of the Townships of Ops, Mariposa, Eldon, Carden and Dalton, the Town of Lindsay, and the Village of Woodville.
48. The East Riding shall consist of the Townships of Emily, Fenelon, Bexley, Laxton, Digby, Longford, Somerville and Verulam, the Villages of Omemee and Bobcaygeon, and all the municipalities included in the Provisional County of Haliburton 48 V. c. 2, s. 10 (6).

THE COUNTY OF WATERLOO shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

49. The North Riding shall consist of the northerly portion, hereinafter described, of the Township of Waterloo, the Townships of Woolwich and Wellesley, and the Towns of Berlin and Waterloo, and the Village of Elmira.
50. The South Riding shall consist of the southerly portion of the said Township of Waterloo, the Townships of North Dumfries and Wilmot, the Town of Galt, and the Villages of Ayr, Hespeler, New Hamburg and Preston.

The said northerly portion of the Township of Waterloo shall include and consist of that part of the said Township lying within the following limits, that is to say: Commencing at the south-west angle of lot number forty-six in the said Township; thence easterly along the southerly limits of the said lot, and of the lots numbers forty-seven, forty-eight, fifty, fifty-one, and fifty-three, and the prolongation thereof, to the middle of the Grand River; thence along the middle of the said river, against the stream, to the prolongation of the limit between lots numbers one hundred and

thirteen and one hundred and fourteen, and along the prolongation of the limit between the said lots numbers one hundred and thirteen and one hundred and fourteen, and along the limits between the said lots numbers one hundred and thirteen and one hundred and fourteen, northerly and easterly, to the westerly limits of lot one hundred and seven; thence along the westerly limits of the said lot number one hundred and seven, northerly, to the northerly limits thereof; thence along the northerly limits of the said lot number one hundred and seven, and of lots numbers one hundred and six, eighty-four and ninety-six, easterly, to the easterly boundary of the said Township; thence along the easterly, northerly and westerly boundaries of the said Township, in a northerly, westerly and southerly direction, respectively, to the place of beginning; And the said southerly portion of the said Township of Waterloo shall include and consist of all the remaining part of the said Township. R. S. O. 1877, c. 8, s. 14 (51, 52).

Wellington.

THE COUNTY OF WELLINGTON shall be divided into three Ridings, to be called respectively the South Riding, the East Riding and the West Riding.

51. The South Riding shall consist of the Townships of Guelph, Puslinch, Pilkington and Eramosa, and the City of Guelph.
52. The East Riding shall consist of the Townships of Arthur, Nichol, Erin, West Garafraxa and West Luther, the Town of Mount Forest, and the Villages of Erin, Fergus and Elora.
53. The West Riding shall consist of the Townships of Minto, Maryborough and Peel, the Town of Palmerston, and the Villages of Harriston, Arthur, Clifford and Drayton. R. S. O. 1877, c. 8, s. 14 (53-55); 48 V. c. 2, s. 10 (14).

Wentworth.

THE COUNTY OF WENTWORTH shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

54. The North Riding shall consist of the Townships of Beverly, Flamborough West, Flamborough East, the Town of Dundas, and the Village of Waterdown.
55. The South Riding shall consist of the Townships of Saltfleet, Binbrook, Glanford, Barton and Ancaster. R. S. O. 1877, c. 8, s. 14 (56, 57).

York.

THE COUNTY OF YORK shall be divided into three Ridings, to be called respectively the North Riding, the East Riding and the West Riding.

56. The North Riding shall consist of the Townships of King, Whitchurch, Georgina, East Gwillimbury and North Gwillimbury, the Town of Newmarket, the Villages of Aurora and Holland Landing, and that part of the Village of Stouffville, which formerly formed part of the Township of Whitchurch. See sec. 9, (2).
57. The East Riding shall consist of the Townships of Markham and Scarborough, that portion of the Township of York lying east of Yonge Street, the Villages of Markham and Richmond Hill, and that part of the Village of Stouffville which formerly formed part of the Township of Markham. (See sec. 9, (2).)
58. The West Riding shall consist of the Townships of Etobicoke and Vaughan, and that portion of the Township of York lying west of Yonge Street, and the Villages of Etobicoke and Woodbridge. R. S. O. 1877, c. 8, s. 14 (58-60); 48 V. c. 2, s. 10 (19).

15. Each of the following tracts of territory shall form an Counties.
Electoral District :—

59. THE COUNTY OF DUNDAS,
60. THE COUNTY OF GLENGARRY,
61. THE COUNTY OF HALTON,
62. THE COUNTY OF PRESCOTT,
63. THE COUNTY OF PRINCE EDWARD. R. S. O. 1877, c. 8 s. 15 (62-66).
64. THE COUNTY OF STORMONT. R. S. O. 1877, c. 8, s. 15 (68); 48 V. c. 2, s. 10 (12); 50 V. c. 8, Sched.
65. THE COUNTY OF ADDINGTON,—to consist of the Town- Addington.
ships of Camden, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, North Canonto, South Canonto, Ashby and Denbigh, and the Village of Newburgh. 48 V. c. 2, s. 10 (16).
66. THE COUNTY OF CARDWELL,—to consist of the Town- Cardwell.
ships of Albion, Adjala, Tecumseth, Innisfil and West Gwillimbury, and the Villages of Beeton, Bolton, Bradford and Tottenham. 48 V. c. 2, s. 10 (9).
67. THE COUNTY OF CARLETON,—to consist of the Town- Carleton.
ships of Fitzroy, Goulburn, Gower North, Huntley, March, Malborough, Nepean and Tarbolton, and the Village of Richmond. R. S. O. 1877, c. 8, s. 15 (61-68).
68. THE COUNTY OF DUFFERIN,—to consist of the Town- Dufferin.
ships of Mono, Melancthon, Amaranth, East Garafraxa, Mulmur, and East Luther, the Town of

Orangeville and the Village of Shelburne. R. S. O. 1877, c. 8, s. 15 (71); 48 V. c. 2, s. 10 (10).

- Frontenac. 69. THE COUNTY OF FRONTENAC,—to consist of the Townships of Wolfe Island, Pittsburgh, Howe Island, Storrington, Loughboro, Portland and Bedford, and the Village of Garden Island. 48 V. c. 2, s. 10 (15).
- Grenville. 70. THE COUNTY OF GRENVILLE,—to consist of the Townships of Augusta, Edwardsburgh, Oxford, Wolford and South Gower, the Town of Prescott, and the Villages of Kemptville, Merrickville and Cardinal. 48 V. c. 2, s. 10 (2b).
- Haldimand. 71. THE COUNTY OF HALDIMAND,—to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole and Dunn, and the Villages of Caledonia, Cayuga and Hagarsville. R. S. O. 1877, c. 8, s. 15 (73).
- Leeds. 72. THE COUNTY OF LEEDS,—to consist of the Township called the Front of Leeds and Lansdowne, the Township called the Rear of Leeds and Lansdowne, the Townships of South Crosby, North Crosby, Bastard and South Burgess, Kitley and Elmsley South, and the Villages of Gananoque and Newboro. 48 V. c. 2, s. 10 (2a).
- Lennox. 73. THE COUNTY OF LENNOX,—to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernestown and Amherst Island, the Town of Napanee, and the Village of Bath. R. S. O. 1877, c. 8, s. 15 (74).
- Lincoln. 74. THE COUNTY OF LINCOLN,—to consist of the Townships of Clinton, Grantham, Grimsby, Grimsby North, Louth and Niagara, the City of St. Catharines, the Town of Niagara, and the Villages of Grimsby North, Merriton, and Port Dalhousie. R. S. O. 1877, c. 8, s. 15 (75).
- Monck. 75. THE COUNTY OF MONCK,—to consist of the Townships of Canborough, Moulton, Sherbrooke, Caistor, Gainsborough, Pelham and Wainfleet, and the Village of Dunnville. R. S. O. 1877, c. 8, s. 15 (76).
- Peel. 76. THE COUNTY OF PEEL,—to consist of the Townships of Caledon, Chinguacousy, Toronto and the Gore of Toronto, the Town of Brampton, and the Village of Streetsville. R. S. O. 1877, c. 8, s. 15 (77); 48 V. c. 2, s. 10 (11).
- Russell. 77. THE COUNTY OF RUSSELL,—to consist of the Townships of Cambridge, Clarence, Cumberland, Gloucester, Osgoode and Russell, and the Village of Rockland. R. S. O. 1877, c. 8, s. 15 (67).

78. THE COUNTY OF WELLAND,—to consist of the Town- Welland.
ships of Bertie, Crowland, Humberstone, Stamford,
Thorold and Willoughby, the Towns of Niagara Falls,
Thorold and Welland, and the Villages of Chippewa,
Fort Erié, Niagara Falls and Port Colborne. R. S. O.
1877, c. 8, s. 15 (78).
79. THE ELECTORAL DISTRICT OF WEST ALGOMA,—to West Algoma.
consist of that part of the territory forming the Pro-
visional Judicial District of Thunder Bay which lies
west of eighty-seven degrees west longitude. 48 V.
c. 2, s. 8; 49 V. c. 19, s. 1.
80. THE ELECTORAL DISTRICT OF EAST ALGOMA,—to East Algoma.
consist of the territory forming the Provisional Judi-
cial District of Algoma, together with that part of
the Provisional Judicial District of Thunder Bay,
which lies east of eighty-seven degrees west longitude.
48 V. c. 2, s. 8; 49 V. c. 19, s. 1.
81. THE ELECTORAL DISTRICT OF MUSKOKA,—to consist of Muskoka.
the Territorial District of Muskoka. 47 V. c. 3, ss. 2, 7;
48 V. c. 2, s. 10 (5).
82. THE ELECTORAL DISTRICT OF PARRY SOUND,—to consist Parry Sound.
of the Territorial District of Parry Sound. 47 V. c.
3, ss. 3, 7; 48 V. c. 2, s. 10 (5).
83. THE ELECTORAL DISTRICT OF BROCKVILLE,—to con- Brockville.
sist of the Town of Brockville, and the Township of
Elizabethtown, the Township called Front of Yonge,
the Township called Rear of Yonge and Escott, and
the Township called Front of Escott. 48 V. c. 2,
s. 10 (8).
84. THE ELECTORAL DISTRICT OF KINGSTON,—to consist Kingston.
of the City of Kingston, the Township of Kingston,
and the Village of Portsmouth. 48 V. c. 2, s. 10 (13).
85. THE CITY OF OTTAWA. R. S. O. 1877, c. 8, s. 15 (83).
86. THE CITY OF HAMILTON. R. S. O. 1877, c. 8, s. 15 (84).
87. THE CITY OF LONDON. R. S. O. 1877, c. 8, s. 15 (86).

—Each of the above mentioned eighty-seven Electoral Districts one member shall be represented in the Legislative Assembly by one each.
member. R. S. O. 1877, c. 8, s. 17.

88. THE CITY OF TORONTO and the TOWN OF PARKDALE Toronto.
shall form the Electoral District of the City of
Toronto, and shall return three members.

- (a) At a contested election for the said electoral district
no person shall vote for more than two candi-
dates. 48 V. c. 2, s. 10 (4).

CHAPTER 8.

An Act respecting Voters' Lists.

SHORT TITLE, s. 1.	Substitution of new complainant, s. 28.
INTERPRETATION, s. 2.	Costs of complaints, ss. 29, 30.
ALPHABETICAL LIST OF VOTERS TO BE MADE BY CLERK, ss. 3, 4.	Obtaining opinion of Court of Appeal or Judge thereof, s. 31.
DISTRIBUTION AND POSTING UP COPIES OF LIST, ss. 5-9.	PERSONS ADDED ON LISTS TO PAY TAXES, s. 32.
REVISION OF LIST—	LIST NOT VITIATED BY FAILURE OF CLERK TO PERFORM HIS DUTIES, ss. 33, 34.
Who may complain and on what grounds, s. 10.	PENALTIES AND FINES—
Powers and duties of Judge, ss. 11, 12, 21-24, 26, 27.	Neglect of Clerk, s. 35.
Procedure ss. 13, 14.	Wilful alteration of list, s. 36.
List to be certified by Judge, ss. 15-17.	Colourable transfer of property to confer vote, s. 37.
District Judges and Stipendiary Magistrates to have same powers as County Judges, s. 18.	Recovery of fines and penalties, ss. 38-41.
Effect of certified list, s. 19.	Wrongful assessment or omission, s. 39.
Municipality to provide Court Room, s. 20.	Trial of actions for penalties, s. 40.
Clerk—	For fraudulently dealing with Roll, s. 41.
duties generally, s. 22.	ASSESSOR TO MAKE INQUIRIES BEFORE ASSESSING PERSONS, s. 42.
remuneration, ss. 23, 25.	INSPECTION AND COPIES OF DOCUMENTS, s. 43.
failure to perform duties, ss. 33-35.	OFFICERS TO FURNISH COPIES OF LISTS, s. 44.
falsifying list, s. 36.	RULES, s. 45.
to furnish copies of list, s. 44.	ENTRY OF CERTAIN WORDS ON LIST, s. 46.
Constables, their duties and fees, ss. 24, 25.	FORMS, s. 47.
Report by Judge as to frauds, s. 26.	
Amendment of proceedings, s. 27.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Voters' Lists Act.*" R. S. O 1877, c. 9, s. 1.

INTERPRETATION.

Interpretation. 2. In this Act, unless a contrary intention appears:

1. "Election," "To Vote," "Corrupt Practices," "Landholder's Son," "Wage-Earner," shall respectively have the meaning given thereto by section 2 of *The Ontario Election Act*;
 "Election;"
 "To Vote;"
 "Corrupt Practices;"
 "Landholder's Son;"
 "Wage-Earner,"

2. "Voter" shall mean a person entitled to vote, or to be "Voter." named in the voters' list;

3. "List," "Voters' List," shall respectively mean the alphabetical list referred to in section 3 of this Act. "List;"
"Voters'
List."

4. "Scrutiny" shall mean any scrutiny of the votes polled at an election within the meaning of section 74 and the next succeeding nine sections of *The Ontario Controverted Elections Act*; and "Scrutiny."
Rev. Stat.
c. 10.

5. "Clerk of the Peace," shall mean the Clerk of the Peace for, and "County Judge," shall mean the Judge of the County Court for the county or union of counties within which lies the municipality for or in respect of which the voters' list is made. "Clerk of the
Peace."
"County
Judge." 41 V. c. 21, s. 2.

VOTERS' LISTS AND COPIES.

3.—(1) The clerk of each municipality shall, immediately after the final revision and correction of the assessment roll in every year, make a correct alphabetical list in three parts (Form 1) of all persons being of the full age of twenty-one years and subjects of Her Majesty by birth or naturalization, and appearing by the assessment roll to be entitled to vote in the municipality, prefixing to the name of each person his number upon the roll. Clerk to make
list of voters.

(2) The first of the three parts shall contain the names, in alphabetical order, of all male persons of full age and subjects as aforesaid, appearing by the assessment roll to be assessed for the real property or income requisite to entitle him to vote in the municipality at both municipal elections and elections for members of the Legislative Assembly. First part.

(3) The second part shall contain the names, in alphabetical order, of all other male persons of full age and subjects as aforesaid, and of all widows and unmarried women of full age and subjects as aforesaid, and appearing on the assessment roll to be entitled to vote in the municipality at municipal elections only, and not at elections for members of the Legislative Assembly. Second part.

(4) The third part shall contain the names, in alphabetical order, of all other male persons of full age and subjects as aforesaid, appearing by the assessment roll to be entitled to vote in the municipality at elections for members of the Legislative Assembly only, and not at municipal elections. Third part.

(5) The name of the same person shall not be entered more than once in any such part. Name to be
entered once
only.

(6) Where a municipality is divided into polling subdivisions the list (to be made in three parts as aforesaid) shall be made for each of the subdivisions. Lists for poll-
ing subdivi-
sions.

Real property on which voter qualifies to be named.

(7) If the qualification of such person is in respect of real property, the clerk shall, opposite the name of the person, insert, in the proper column of the voters' list, the number of any lot or other proper description of any parcel of real property in respect of which each person is so qualified; adding thereto, where the person is so qualified in respect of more than one such lot or parcel, the words "and other premises;"

Rev. Stat. c. 9.

In the case of the person being a landholder's son or a wage-earner within the meaning of *The Ontario Election Act*, the clerk shall also, in the proper column of the voters' list, state that fact and the place at which the voter resides in the municipality.

Entry where voter assessed in several subdivisions of same ward.

(8) Where a ward of any municipality is divided into polling subdivisions, and it appears by the assessment roll that a person is assessed in each of two or more polling subdivisions in the ward for property sufficient to entitle him to vote, the clerk shall enter his name on the list of voters in one subdivision only, and shall, as required by the preceding subsection, insert opposite his name the additional words "and other premises;" and where, within the knowledge of the clerk, a person resides in one of the polling subdivisions, his name shall be entered as aforesaid in the list of voters for that polling subdivision.

Provision when property partly in one subdivision and partly in another.

(9) Where it appears by the assessment roll that a person is assessed for property within the municipality sufficient to entitle him to vote, but that it lies partly within the limits of one subdivision and partly within another or others, the clerk shall enter his name on the list of voters in one of the subdivisions only in which the property is situate, with the following words added: "Partly qualified in subdivision No. "

Income qualification.

(10) If the qualification is in respect of taxable income, the clerk shall, in the proper column of the voters' list, state that fact and the place at which the voter resides in the municipality.

When assessment roll to be regarded as finally revised.

(11) An assessment roll shall be understood to be finally revised and corrected, when it has been so revised and corrected by the Court of Revision for the municipality, or by the Judge of the County Court in case of an appeal as provided in *The Assessment Act*, or when the time during which the appeal may be made has elapsed, and not before. 48 V. c. 3, s. 2; 49 V. c. 16, s. 5.

Rev. Stat. c. 193.

P. O. address of voter to be entered on list.

Rev. Stat. c. 52.

4. The clerk of every township municipality, in making out the list, shall, besides complying with section 23 of *The Jurors' Act*, insert in the list (Form 1) a schedule containing the name, numbered consecutively, of every post office, which by the assessment roll appears to be, or within the knowledge or belief of the clerk is, the proper post office address of any person entered in the list, and in making out the list shall, according to the form and in the proper column therefor, insert opposite the name of every person entered in the list the con-

secutive number* which according to the schedule is that of the proper post office address of the person, so far as the address appears by the assessment roll, or is within the knowledge or belief of the clerk; but no appeal or complaint on the ground of any error, mistake or omission in or from the list in respect of any matter or thing by this section directed to be inserted therein, shall be made or allowed by or under this Act. 42 V. c. 3, s. 8.

5. Immediately after the clerk has made the alphabetical list, and within forty days in cities and in other municipalities within thirty days after the final revision and correction of the assessment roll, the clerk shall cause at least two hundred copies of the list to be printed (in pamphlet form where practicable), and forthwith shall cause one of the printed copies to be posted up, and to be kept posted up in some conspicuous place in his own office, and deliver or transmit by post, by registered letter, or by parcel post, registered, three copies to each Judge of the County Court of the County to which for judicial purposes the municipality belongs; and two copies to each of the following persons, that is to say:—

Copies of list to be printed.

Copies to be posted in clerk's office, and copies to be sent to certain persons.

(a) Every member of the Municipal Council of the Municipality except the Reeve;

(b) The Treasurer thereof;

(c) The Sheriff of the County;

(d) The Clerk of the Peace;

(e) Every Postmaster in the Municipality;

(f) Every Head Master or Mistress of a Public or Separate School in the Municipality. R. S. O. 1877, c. 9, s. 3; 48 V. c. 3, s. 8.

6. The clerk of the municipality shall forthwith also deliver or transmit by post, by registered letter, or by parcel post, registered, ten copies to each of the following persons, that is to say:—

Clerk of the municipality to transmit copies to certain persons.

(a) The Member of the House of Commons for the Electoral District in which the Municipality or any part thereof lies;

(b) The Member of the Legislative Assembly for the Electoral District in which the Municipality or a part thereof lies;

(c) Every candidate for whom votes were given at the then last election of a member for the House of Commons and for the Legislative Assembly respectively; and

(d) The Reeve of the Municipality. R. S. O. 1877, c. 9, s. 4.

7. Upon each of the copies so sent shall be a printed or written certificate (Form 2) over the name of the clerk, stating that the list is a correct list of all persons appearing by the last revised assessment roll of the municipality to be entitled to vote at elections for members of the Legislative

Clerk to certify as to certain matters on each copy of list.

Assembly, and at municipal elections in the municipality; and further, calling upon all electors to examine the list, and, if omissions or other errors are perceived therein, to take immediate proceedings to have the errors corrected according to law. 48 V. c. 3, s. 9.

Sheriff, clerk of the peace, teacher and postmaster to post up a copy.

8. The Sheriff shall immediately upon the receipt of his copies cause one of them to be posted up in a conspicuous place in the Court-House; the Clerk of the Peace, upon receipt of his copies, shall cause one of them to be posted in a conspicuous place in his office; every Public or Separate School Head Master or Mistress shall in like manner post up one of his or her copies on the door of the school-house; and every Postmaster shall post up one of his copies in his post-office. R. S. O. 1877, c. 9, s. 6.

Clerk to publish notice of first posting up by him.

9. The clerk shall also forthwith cause to be inserted in some newspaper published in the municipality, or in case no newspaper is published in the municipality, then in some newspaper published in the municipality next thereto, or in the County Town, a notice (Form 3), signed by him, which shall state that he has delivered or transmitted the copies of the list as directed by this Act, and shall also mention the date of the first posting up of the list in his office. One insertion of the notice shall be sufficient. R. S. O. 1877, c. 9, s. 7.

REVISION OF LISTS.

Revision of list.

10.—(1) The list shall be subject to revision by the County Judge, at the instance of any voter or person entitled to be a voter in the municipality for which the list is made, or in the electoral district in which the municipality is situate, on the ground of the names of voters being omitted from the list, or being wrongly stated therein, or of names of persons being inserted on the list who are not entitled to vote;

Upon such revision the assessment roll shall not be conclusive evidence in regard to any particular, whether the matter on which the right to vote depends had or had not been brought before the Court of Revision, or had or had not been determined by that court;

Upon such revision any person who is a wage-earner shall not be disentitled to have his name entered on the list, either by reason of his having omitted to make, sign or deliver any statement required by the provisions of *The Assessment Act* to be so made, signed or delivered by him, or by reason of his name not having been entered on the assessment roll as a wage-earner;

The decision of the Judge under this Act, in regard to the right of any person to vote, shall be final so far as regards such person.

Rev. Stat. c. 193.

Appeal in case of persons disqualified under Rev. Stat. c. 9.

(2) A complaint or an appeal (Form 4) may be made on the ground of any person whose name is entered on the list being one of those who are disqualified or incompetent to vote under *The Ontario Election Act*.

(3) If, before the final revision and correction of the assessment roll, a person named as a voter in the list of voters has died or, having parted with the property in respect of which his name was entered in the voters' list, has, within the meaning of section 7 of *The Ontario Election Act*, ceased to be a resident of the electoral district, the person who, at the time of the final revision and correction, was in possession of the property shall, if otherwise qualified to vote, be entitled to apply to (Form 5) the Judge to be entered on the list instead of the person first named in this section;

Applications by persons who have acquired property since assessment.

The proceedings to be taken in such case shall be the same as in cases of appeals under this Act.

(4) Any person who is rated, or entered, or liable to be rated, or entered on the assessment roll, either for real property or income of the amount requisite to entitle him to vote, or as a landholder's son or a wage-earner, within the meaning of *The Assessment Act* or of *The Ontario Election Act*, and who will be of the age of twenty-one years at any time within sixty days from the final revision and correction of the assessment roll, shall be entitled to apply to the Judge to have his name entered upon the voters' list, or upon the assessment roll and the voters list, as the case may require.

Persons who will be of age within 60 days from revision.

(5) Any landholder's son and any wage-earner entitled to be assessed or entered in the assessment roll of a municipality under *The Assessment Act*, shall, in all respects and for all purposes, have the right to apply and complain to the Judge on the revision of the voters' lists, and to have his name entered and inserted in the list. 48 V. c. 3, s. 4.

Application by landholders' sons and wage-earners.

(6) Any landholder's son, and any wage-earner entitled as such to be assessed or to have his name entered in the assessment roll of a municipality, shall be so assessed and shall have his name so entered without any request in that behalf unless he informs or notifies the assessor to the contrary; and a person entitled to be entered in the assessment roll or in the voters' list based thereon, or to vote or to be a voter in the electoral district in which the municipality is situate, shall, in order to have the name of a landholder's son or wage-earner entered and inserted in the assessment roll, or list of voters, as the case may be, have for all purposes the same right to apply, complain or appeal to a Court or a Judge in that behalf, as a landholder's son or wage-earner would or can have personally, unless it is made to appear to the Court or Judge that the landholder's son or wage-earner actually dissents therefrom. 48 V. c. 3, s. 6.

Entry on roll of landholders' sons and wage-earners.

(7) But the name of a wage-earner shall not be entered in the assessment roll as a wage-earner, unless to the assessor or one of the assessors, if there is more than one, there has been first delivered by or on behalf of the wage-earner, the written affirmation made and signed by him as provided in that behalf by *The Assessment Act*. 48 V. c. 42, s. 5, (2.)

Affirmation of wage earner.

Powers of
County Judge.

11. The County Judge, at any Court held by him for the revision of Voters' Lists under this Act, may, without a previous notice of appeal or complaint in that behalf, on an application made by or on behalf of the person named in the lists, correct any mistake which shall be proved to him to have been made in compiling any Voters' List in respect of the name, or place of abode, or nature of the qualification, or the local or other description of the property, of a person entered on the list, and against or with respect to whose right to be entered on the list an appeal or complaint is either pending before or being heard by the Judge: but in any case, evidence may be produced and given before the Judge that the person has no qualification or no sufficient qualification in law to entitle him to vote, and if the Judge, on the evidence, is of opinion that the person has not the qualification, he shall expunge and strike the name of such person from the list. 42 V. c 3, s. 2.

On appeals
Judge to cor-
rect list as
evidence may
warrant.

12. If on a complaint or appeal to strike out of the list the name of a person entered therein as a voter, the Judge, from the evidence produced and given before him, is of opinion that the person is entitled to be entered on the list in any character, or because of property or qualification other than that in which he is so already entered in the list, the Judge shall not strike the name of the person from the list, but shall make such corrections in the list as the evidence in his opinion warrants with respect to the right, character and qualification of the person to vote. 42 V. c. 3, s. 3.

Proceedings
on complaint
of errors in the
list

13.—(1) A voter or person entitled to be a voter making a complaint of any error or omission in the list shall, within thirty days after the clerk of the municipality has posted up the list in his office, give to the clerk or leave for him at his residence or place of business, notice (Form 6) in writing of his complaint and intention to apply to the Judge in respect thereof;

If the office of clerk is vacant by reason of death, resignation or from any other cause, the notice may be given in like manner to the head of the council of the municipality;

The proceedings thereafter by the clerk, Judge, and parties respectively, and the respective powers and duties of the Judge, clerk and other persons, shall be the same, or as nearly as may be the same, as in the case of an appeal from the Court of Revision; but no deposit shall be required to be made before the complaint is heard or disposed of. (See Forms 7-12).

The case of
notice left with
head of the
Council.

(2) If the notice is given to or left for the head of the council, he shall perform or cause to be performed such necessary acts as should be performed by the clerk if there were one. R. S. O. 1877, c. 9, s. 9.

Notice of hold-
ing court for
complaints.

(3) No Judge shall proceed with the holding of any Court for hearing complaints as aforesaid, unless and until notice (Form

10) of the time and place of holding the Court shall by the clerk have been published at least ten days before the sittings of the Court, in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest municipality in which one is published. 48 V. c. 3, s. 10.

14.—(1) Any person may obtain from the County Court a sub-pœna (Form 13), or from the county Judge an order, requiring the attendance at the Court for hearing complaints as aforesaid, at the time mentioned in the sub-pœna or order, of a witness residing or served with the sub-pœna or order, in any part of this Province; and requiring the witness to bring with him and produce at the Court any papers or documents mentioned in the sub-pœna or order, and every witness served with the sub-pœna or order shall obey the same, provided the allowance for his expenses, according to the scale allowed in Division Courts, is tendered to him at the time of service.

Compelling attendance of witnesses on revision of list.

(2) Any person complaining, or any person in respect of the insertion or omission of whose name a complaint is made, shall, if resident within the municipality, the list of which is the subject of complaint, or within the municipality in which the Court is held, upon being served with a sub-pœna or order therein, obey the same without being tendered or paid any allowance for his expenses; and where the complaint is by or in respect of a person whose name is entered in the list of voters as being, or who is alleged to be, a wage-earner or landholder's son within the meaning of *The Assessment Act* or of *The Ontario Election Act*, the sub-pœna or order shall be deemed to have been sufficiently served upon him under the provisions of this section:

Person whose right is in question to attend.

- (a) If the sub-pœna or order is served upon him personally; or
- (b) Where he has a known residence or place of business within the municipality, if a copy of the sub-pœna or order is left for him with some grown person, at such residence or place of business; or
- (c) Where he has no known residence or place of business within the municipality, if a copy of the sub-pœna or order is mailed to him through the post-office, with the postage thereon pre-paid, and addressed to him at the post-office address contained in any written affirmation made by him under *The Assessment Act*; or
- (d) Where such person is a landholder's son if a copy of the order or sub-pœna is left for him with some grown person at the residence of the landholder whose son he is.

Penalty for non-attendance.

(3) If a person, whose right to be a voter is the subject of enquiry, does not attend in obedience to the subpoena or order, the Judge, if he thinks fit, in the absence of satisfactory evidence as to the ground of the non-attendance, or as to the right of the person to be a voter, may, on the ground of his non-attendance, strike his name off the list of voters, or refuse to place his name on the list of voters, as the case may require, or impose a reasonable fine on him according to his discretion, or do both.

Names in subpoena.

(4) Any number of names may be inserted in one subpoena or Judge's order, in any case of complaint. 48 V. c. 3, s. 7.

Judge to revise and certify within two months of last day for complaint.

15. It shall be the duty of the County Judge so to arrange and proceed, and so to fix the sittings of the Court for the hearing of complaints against or in respect of any Voters' List, that the complaints shall be heard and determined, and the list finally revised, corrected and certified under this Act, within two months of the last day for making complaints. 41 V. c. 21, s. 8.

List confirmed if no complaint within 30 days after the Clerk has posted up the list.

16. In case no complaint respecting the list is received by the Clerk of the Municipality, within thirty days after he has posted up the list in his office, the clerk shall forthwith apply (Form 14), either in person or by letter, to the Judge to certify (Form 15) three copies of the list as being the revised list of voters for the Municipality; and the Judge shall retain one of the certified copies of the list, and deliver or transmit by post, registered, one of the certified copies to the Clerk of the Peace for the county or union of counties within which the Municipality lies, and one of the certified copies to the Clerk of the Municipality, to be kept by him among the records of his office. R. S. O. 1877, c. 9, s. 11.

After final revision, Judge to make statement of alterations and certify copies of list.

17.--(1) In case complaints are made as aforesaid, immediately after the list has been finally revised and corrected by the Judge, the Judge shall make or cause to be made, and shall sign, a statement (Form 16) in triplicate, setting forth the changes, if any, which he has made in the list; and shall certify in triplicate (Form 17) a corrected copy of the list; and the statement in triplicate, and the corrected copies of the list shall, if the Judge so order, and under his directions and supervision, be prepared by the Clerk of the Municipality, and for that purpose the Judge shall forthwith, after the list has been so finally revised and corrected, transmit or deliver to the clerk all necessary papers and directions, which papers and directions together with the statement in triplicate and the corrected copies shall within, at latest, the week next after the list has been so finally revised and corrected as aforesaid, be re-transmitted and delivered by the clerk to the Judge, who thereupon shall immediately sign the statement and certify the corrected copies as aforesaid;

Statements and corrected copies of lists to be prepared by Clerk if Judge so directs.

But should the statement and corrected copies not be re-transmitted and delivered by the clerk to the Judge within the time above mentioned, the Judge shall immediately thereafter make and sign the statement and certify the corrected copies of the list. R. S. O. 1877, c. 9, s. 12 (1); 42 V. c. 3, s. 5.

(2) The Judge shall retain one of the certified copies and one statement, and shall deliver or transmit by post, registered, one of the certified copies and one statement to the Clerk of the Peace for the county or union of counties within which the municipality lies, and one of the certified copies and one statement to the Clerk of the Municipality, to be kept by him among the records of his office. R. S. O. 1877, c. 9, s. 12 (2). How the judge shall dispose of the statements and copies.

18. The District Judges in the District of Algoma and in that part of the District of Thunder Bay not included in the Rainy River District, and the Stipendiary Magistrate of the District in the Districts of Muskoka, Parry Sound, Nipissing and Rainy River, shall for the purposes of this Act have the jurisdiction, duties and powers which County Court Judges have in counties. 49 V. c. 19, s. 6. Jurisdiction of District Judges and Stipendiary Magistrates.

19. Every voters' list which under this Act is certified by the County Judge, shall, upon a scrutiny, be final and conclusive evidence of the right of all persons named therein to vote at any election at which such list was or could have been legally used; except Certified voters' list conclusive.

1. Persons guilty of corrupt practices at or in respect of the election in question on such scrutiny, or since the list was certified by the County Judge as aforesaid; Exceptions.

2. Persons who, at any time subsequently to the list being certified by the County Judge are or have been non-resident either within the municipality to which the list relates, or within the electoral district for which the election is held, and who by reason thereof are, under the provisions of *The Ontario Election Act*, incompetent and disentitled to vote:

3. Persons who, under sections 4, 5 and 6 of *The Ontario Election Act* are disqualified and incompetent to vote. 41 V. c. 21, s. 3 (1, 2, 4).

20. It shall be the duty of the municipality within which a Court is holden, to provide some suitable and convenient place, properly furnished, heated and lighted for the holding of the Court, and in case the same is not done the Judge may hold the Court at such other place in the County as he may deem proper; and if the same is held elsewhere than in the county court house, the proprietor of the building in which it is held may recover from the Municipality which should have made such provision the sum of \$5 for each and every day during which the building is used for the purposes of the Court; Municipality to provide a court room.

Courts in
county towns.

Every court held in the county town shall be held in the county court house, or in such other place in the county town as the Judge may deem proper. R. S. O. 1877, c. 9, s. 13.

Powers of
Judge.

21. In all proceedings before the Judge under this Act, the Judge shall have, with reference to the matters herein contained, all the powers which belong to or might be exercised by him in the County Court. R. S. O. 1877, c. 9, s. 14.

Clerk to be
subject to the
summary jur-
isdiction of
the Judge.

22. The clerk of every municipality shall be subject to the summary jurisdiction and control of the County Judge in respect to the performance of his duty under this Act, and in respect to every act required to be performed by the Clerk touching the voters' list, in the same manner as officers of the County Court are to the Court. R. S. O. 1877, c. 9, s. 16; 42 V. c. 3, s. 7.

Clerk's remun-
eration.

23. Where it is provided by a by-law or contract under which the Clerk of a Municipality is appointed or employed that the sum to be paid him by way of salary as Clerk is intended expressly or impliedly to include payment for all duties which, as Clerk and under this Act are to be performed by him, either in the preparation, publication and distribution of the list of voters under this Act, or before, upon or after the lodging with him of any complaint or appeal under this Act, or for any other act or work of whatever nature or kind required by this Act to be done by him; then the Clerk shall not, in respect of such duties or work, be entitled to or be allowed by the County Judge, nor shall there be taxed to him, any fee, payment, cost or charge whatsoever; but when it is not intended by the by-law or contract to provide for the performance of the above-mentioned duties and work, then the Clerk shall be entitled in respect thereof to the following but to no other fee or compensation, that is to say:—

1. Two cents for the name of every person entered in the list of complaints and in respect to whom appeal was made.

2. Two cents for every name entered in any necessary copy of said list of complaints.

3. Eight cents for every necessary notice to any party complaining or complained against.

4. Three dollars for every day's attendance on the sittings of the Court for the revision of the Voters' List.

5. And to the actual and reasonable disbursements (if any) necessarily incurred by him in serving the notices of complaint or appeal, when served by himself. 42 V. c. 3, s. 6.

Appointment
of Constable.

24.—(1) The Judge shall have power to appoint some proper person to attend at the sitting of the Court as a constable and bailiff; and the duties and powers of such person thereat shall

be as nearly as may be the same as those of the bailiff of a Division Court at a sitting of a Division Court and in reference thereto. R. S. O. 1877, c. 9, s. 15, *part*.

(2) The person acting as constable shall be entitled to the following but no other fees or compensation; that is to say: Constable's fees.

(a) The sum of one dollar and fifty cents for every day's attendance;

(b) For the service of any process or notice, including the service, the receipt and the return thereof and all other services connected therewith when allowed by the Judge, a sum not exceeding ten cents per mile one way for each mile actually and necessarily travelled to effect such service. 41 V. c. 21, s. 16.

25. The compensation fixed by the preceding two sections shall be paid to the clerk and constable respectively by the Municipality the list for which is the subject of investigation; and the amount of the compensation as certified by the Judge shall be so paid by the Treasurer of the Municipality upon the production and deposit with him of the Judge's certificate. 41 V. c. 21, s. 17. Payment of fees.

26. If the Judge who holds a Court believes or has good reason to believe that any person has contravened sections 37 or 39 of this Act, or that frauds in respect to the assessment or the voters' lists have prevailed extensively in the Municipality, it shall be his duty to report the same to the Provincial Secretary, with such particulars as to names and facts as he may think proper. R. S. O. 1877, c. 9, s. 17. Report by Judge, as to frauds, etc.

27. The Judge shall have power to amend any notice or other proceeding upon such terms as he may think proper. R. S. O. 1877, c. 9, s. 18. Amendment.

28. If an appellant or complainant entitled to appeal dies or abandons his appeal or complaint, or having been on the alphabetical list made and posted by the Clerk as aforesaid, is afterwards found not to be entitled to be an appellant, the Judge may, if he thinks proper, allow any other person who might have been an appellant or complainant to intervene and prosecute the appeal or complaint, upon such terms as the Judge may think just. R. S. O. 1877, c. 9, s. 19. Abandonment by appellant and intervention of some other person.

29.—(1) In case of errors being found in the voters' list on the revision thereof, whether the errors are in the omission of names, the inaccurate entry of names, or the entry of names of persons not entitled to vote, if it appears to the Judge that the Assessor was blameable for any of the errors, the Judge shall order (Form 18) the Assessor, either alone or jointly Costs occasioned by errors may be ordered to be paid by guilty parties.

with any other person, to pay all costs occasioned by the same; and in case of errors for which the Clerk was to blame, the Clerk, either alone or jointly with any other person, shall be charged with the costs;

In case of errors of the Court of Revision, the Municipality shall, either alone or jointly with any person, pay the costs, subject to any claim which the Municipality may justly have against the guilty parties; or

The Judge may order the Assessor, Clerk or Municipality in such case, to pay the costs, if a party fails to recover the same from any other party named and ordered to pay the same;

In all cases not herein provided for, the costs shall be in the discretion of the Judge.

Division Court costs only allowed.

(2) No costs shall be allowed on any proceeding under this Act, other or higher than would be allowed in the Division Court under the lowest scale of costs in actions therein.

Liability of appellant for costs.

(3) The only costs to which an appellant shall be liable shall be the witness fees, unless in a case of bad faith on his part. R. S. O. 1877, c. 9, s. 20.

Enforcing payment of costs.

30. The payment of costs ordered to be paid by the Judge may be enforced by an execution (Form 19) against goods and chattels, to be issued from any County Court upon filing therein the order of the Judge, and an affidavit shewing the amount at which the costs were taxed and the non-payment thereof. R. S. O. 1877, c. 9, s. 21.

County Judge may obtain opinion from Court of Appeal or Judge thereof.

31. In order to facilitate uniformity of decision without the delay or expense of appeals,

1. A County Judge may state a case on any general question arising or likely to arise, or expected to arise under this Act, and may transmit the same to the Lieutenant-Governor in Council, who thereupon shall immediately refer the case to the Court of Appeal or a Judge thereof for the opinion of the Court or Judge thereupon; or

Lieut.-Governor may obtain opinion.

2. The Lieutenant-Governor in Council may refer a case on any such general question to said Court of Appeal or a Judge thereof, for a like opinion.

Duty of Court or Judge.

3. Immediately upon the receipt of such case it shall be the duty of the Court or Judge to appoint a time and place for hearing arguments (if any be offered) upon the points and matter involved in the case, of which time and place written notice shall be given by the clerk of the Court posting up a copy of the notice in the office of each one of the Divisions of the High Court at Osgoode Hall, in Toronto, at least ten clear days before the time appointed as aforesaid.

Argument.

4. At the time and place fixed therefor as aforesaid, the Court or Judge shall hear argument upon the case by such of the counsel present (if any) as the Court or Judge may deem reasonable, and shall thereupon consider the

case and certify to the Lieutenant-Governor in Council the opinion of the Court or Judge thereon; and the opinion shall thereupon be forthwith published in the *Ontario Gazette*, and a copy thereof sent to the Judge of every County Court.

Opinion to be published in *Gazette*.

5. The Court of Appeal or a Judge thereof, may also give an opinion on any question at the instance of any voter or voters or person or persons entitled to be voters, if said Court or Judge sees fit; and the proceedings with respect thereto shall be, as nearly as may be, the same as upon a case referred as aforesaid, but, in addition, the Court or Judge may require a deposit of money to cover the costs of hearing the question argued by Counsel, and may require the notice of the proceedings or any of them to be given to such person or persons as the Court or Judge may direct. 41 V. c. 21, s. 11.

Discretionary opinion at instance of voter or person entitled to be voter.

LIABILITY OF PERSONS ADDED ON ROLL FOR TAXES.

32. If a person not assessed, or not sufficiently assessed, is found entitled to vote, the Municipality shall be entitled to recover taxes from him, and to enforce payment thereof by the same means and in the same manner as if he had been assessed on the roll for the amount found by the Judge; and the Judge shall make an order (Form 20), setting forth the names of the persons so liable, and the sum for which each person should have been assessed, and the land or other property in respect of which the liability exists, and the order shall be transmitted to the Clerk of the Municipality, and shall have the same effect as if the said particulars had been inserted in the roll. R. S. O. 1877, c. 9, s. 22.

Persons whose names omitted from roll and inserted on revision liable to pay taxes.

Judge's order.

FAILURE OF CLERK TO PERFORM HIS DUTIES.

33. The times appointed for the performance, by the Clerk of the Municipality, of the duties required of him by this Act, shall be directory only to the Clerk; and the non-performance by him of any of the said duties within the times appointed, shall not render null, void or inoperative any of the lists in this Act mentioned. R. S. O. 1877, c. 9, s. 23.

Failure of Clerk to perform duties not to vitiate list.

34.—(1) In case the Clerk of any Municipality fails to perform any of the duties aforesaid, the Clerk of the Peace shall forthwith apply (Form 21) summarily to the County Judge or the Junior or acting Judge of the County Court for the County within which such Municipality is situate, to enforce the performance of the same.

Provision in case Clerk of Municipality fails to perform duties.

(2) The application may also be made by any person entitled to be named as an elector on the list in respect of which the application is made.

Elector may apply.

(3) The Judge shall, on such application, require (Form 22) the Clerk of the Municipality, and any other person he sees fit, to appear before him and produce the assessment roll, and any documents relating thereto, or to the list in respect to which

Judge may require Clerk or other person to appear and submit to examination, etc.

the application is made, and to submit to such examination on oath as may be required of him or them, and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for the purposes aforesaid.

Liability of Clerk for costs.

(4) The Clerk of the Municipality shall be personally liable for and shall pay the costs of the proceedings, unless on some special grounds the Judge shall see fit to order otherwise, and in such special case the costs shall be in the discretion of the Judge.

Judge's order not to release Clerk from penalty,

(5) The proceedings and order of the Judge shall not in anywise exonerate or release the Clerk from liability to the penalty hereinafter imposed. R. S. O. 1877, c. 9, s. 24.

Penalty on Clerk for neglect, etc.

35. If a Clerk of a Municipality omits, neglects or refuses to complete the voters' lists, or to perform any of the duties hereinbefore required of him for his Municipality, the Clerk, for each omission, neglect or refusal, shall incur a penalty of \$200. R. S. O. 1877, c. 9, s. 25.

Penalty for wilfully falsifying lists.

36. If a Clerk of a Municipality, or Clerk of the Peace, or any other person, wilfully makes any alteration, omission or insertion, or in any way wilfully falsifies any certified list or copy, or permits the same to be done, every such person shall incur a penalty of \$2000. R. S. O. 1877, c. 9, s. 26.

COLOURABLE TRANSFER OF PROPERTY.

Colourable transfer of property in order to confer vote.

37. No person shall make, execute, accept or become a party to any lease, deed or other instrument, or become a party to any verbal arrangement, whereby a colourable interest in any land, house or tenement is conferred, in order to qualify a person to vote at an election; and any person violating the provisions of this section, besides being liable to any other penalty prescribed in that behalf, shall incur a penalty of \$100; and a person who induces or attempts to induce another to commit an offence under this section, shall incur a like penalty. R. S. O. 1877, c. 9, s. 27. *See also c. 9, s. 174.*

PENALTIES AND FINES.

Recovery of penalties.

38. The penalties mentioned in the next preceding three sections may be recovered with costs of action by any person suing for the same in any Court of competent jurisdiction. R. S. O. 1877, c. 9, s. 28.

Penalty on assessor for wrongfully assessing or omitting to assess.

39. An assessor who wilfully and improperly inserts a name in the assessment roll, or assesses any person at too high an amount, with intent in either case to give to any person not entitled thereto an apparent right of voting at any election, or who wilfully inserts a fictitious name in the assessment roll,

or who wilfully and improperly omits a name from the assessment roll, or assesses a person at too low an amount, with intent in either case to deprive any person of his right to vote, shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, or to imprisonment in the common gaol of the county or city, for a period not exceeding six months, or to both fine and imprisonment, in the discretion of the Court. R. S. O. 1877, c. 9, s. 30.

40. Actions for penalties incurred under this Act, shall be tried by a Judge without a jury. 47 V. c. 4, s. 38.

Actions for penalties to be tried by Judge.

41. A person who wilfully and improperly inserts or procures or causes the insertion of a name in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in either or any such case to give to a person not entitled thereto, an apparent right to vote at an election; or who wilfully inserts, or procures or causes the insertion of a fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of a name from the assessment roll, or assesses, or procures or causes the assessment of a person at too low an amount, with intent in either case to deprive a person of his right to vote, shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, or to imprisonment in the common gaol of the county or city, for a period not exceeding six months, or to both fine or imprisonment, in the discretion of the Court. 41 V. c. 21, s. 14.

Fraudulent insertion or omission, etc., on, or dealing with the roll.

Penalty.

CERTAIN INQUIRIES TO BE MADE BY ASSESSORS.

42. To prevent the creation of false votes, where a person claims to be assessed, or claims that another person should be assessed, as owner or occupant of a parcel of land, or as possessing the income which entitles him to vote in the municipality at an election, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed, it shall be the duty of the assessor to make reasonable inquiries before assessing such person. R. S. O. 1877, c. 9, s. 29.

Assessor to make inquiries before assessing persons claiming to be assessed.

INSPECTION AND COPIES OF DOCUMENTS.

43. Any voter, and any person entitled to be a voter, and any agent of such voter or person, shall have liberty at all reasonable times and under reasonable restrictions, to inspect and take copies of or extracts from assessment rolls, notices, complaints, applications, and other papers and proceedings necessary or of use for the carrying out of the provisions of *The Assessment Act*, and this Act; and the Clerk of the Muni-

Inspection and copies of documents.

city is to afford for the said purposes all reasonable facilities which may be consistent with the safety of the documents, and the equal rights and interests of all persons concerned, and shall in regard to the matters aforesaid be subject to the directions and summary jurisdiction of the County Judge. 41 V. c. 21, s. 10.

Clerks of the Peace and of municipalities to furnish copies of last revised voters' list.

44.—(1) The Clerk of the Peace and the Clerk of a Municipality having the custody of the list of voters of a municipality or part of a municipality or place, shall furnish a certified copy of the list, then last revised and corrected, or of any of the parts thereof, to any person who may require a copy or part, on being paid for the same by such person at the rate of four cents for every ten voters whose names are on the list or part: the said officers may furnish printed copies for each of which they shall be entitled to receive six cents instead of the fee aforesaid; and the officers shall verify alterations made therein, by writing their initials in close proximity thereto. If the alterations or interlineations exceed one hundred, it shall be the duty of the said officers to furnish written copies.

Fees to Clerk of the Peace for copy of voters' lists.

(2) For each copy of the voters' list or of any of the parts thereof furnished to the Returning Officer, according to Form 8 in Schedule A to *The Ontario Election Act*, or according to Schedule C to *The Municipal Act*, the Clerk of the Peace furnishing the same shall be entitled to receive the sum of six cents for every ten voters whose names are on such list or part as the case may be. R. S. O. 1877, c. 9, s. 31.

RULES.

Board of County Judges may make rules.

45. The Board of County Judges may, if requested so to do by the Lieutenant-Governor, frame Rules and Forms of procedure for the purpose of better carrying this Act into effect; and such Rules and Forms shall, after being approved of by the Lieutenant-Governor in Council, have the same effect and force as if they formed part of this Act. R. S. O. 1877, c. 9, s. 32.

ENTRY OF CERTAIN WORDS ON LIST.

Words "Householder" etc. on roll, how to be entered on list.

46. The words Householder (H), Freeholder (F), and Tenant (T), appearing on the assessment roll pursuant to *The Assessment Act*, shall, for the purposes of this Act, be held to also mean respectively Occupant (Oc.), Owner (O), or Tenant (T), and shall be so entered in the voters' list by the Clerk of the Municipality. R. S. O. 1877, c. 9, s. 33.

FORMS.

Forms given in this Act may be used.

47. In carrying into effect the provisions of this Act, the Forms set forth in the Schedule hereto may be used, and the same or Forms to the like effect shall be deemed sufficient for the purposes mentioned in the said Schedule. R. S. O. 1877, c. 9, s. 34.

SCHEDULE OF FORMS.

FORM 1.

(Sections 3, 4.)

FORM OF VOTERS' LIST.

Voters' List, 18 Municipality of

SCHEDULE OF POST OFFICES.

- | | |
|-------------------|----------------------|
| 1. North Augusta, | 3. Wright's Corners, |
| 2. Maitland, | 4. Prescott. |

POLLING SUB-DIVISION, No. 1, COMPRISING, ETC. :—(*Giving the limits.*)

PART I.—Persons entitled to vote at BOTH Municipal Elections and Elections to the Legislative Assembly.

No. on Roll.	Name.	Lot.	Con. or Street.	—	Post Office Address.
6	Anderson, Henry	N W $\frac{1}{4}$ 6	3	Owner.	1
14	Andrews, John.....	W 14 acr's 8	1	Tenant.	4
1	Archer, James	2	6	Income.	4
50	Brown, Simon.....	W $\frac{1}{2}$ 9	2	Landholder's Son.	3
71	Burton, Samuel.....	E $\frac{1}{2}$ 17	4	See Sub-Division, No. Etc.	2
	Etc.	Etc.	Etc.	Etc.	Etc.

PART II.—Persons entitled to vote at Municipal Elections ONLY.

No. on Roll.	Name.	Lot.	Con. or Street.	—	Post Office Address.
4	Archer, Henry.....	4	3	Owner.	2
82	Burke, Edmund.....	W $\frac{1}{2}$ 17	4	Landholder's Son.	3
	Etc.	Etc.	Etc.	Etc.	Etc.

PART III.—Persons entitled to vote at Elections to the LEGISLATIVE ASSEMBLY ONLY.

No. on Roll.	Name.	Lot.	Con. or Street.	—	Post Office Address.
43	Acroyd, James.....	'N $\frac{1}{2}$ 3	4	Tenant.	3
8	Amos, Joseph.....	3	7	Owner.	3
	Etc.	Etc.	Etc.	Etc.	Etc.

POLLING SUB-DIVISION, No. 2, COMPRISING, ETC. :—(*Giving the limits.*)
Etc., Etc., Etc.

FORM 2.

(Section 7.)

CERTIFICATE TO BE ENDORSED ON VOTERS' LIST.

I, *A. B.*, Clerk of the Municipality of _____, in the County of _____, do hereby certify that parts one and three of the within (or above) list constitute a correct list for the year 18____ of all persons appearing by the last revised Assessment Roll of the said Municipality to be entitled to vote at Elections for Members of the Legislative Assembly; and that parts one and two constitute a correct list for said year of all persons appearing by the said roll to be entitled to vote at Municipal Elections in said Municipality; and I hereby call upon all electors to examine the said list, and if any omissions or other errors are perceived therein, to take immediate proceedings to have the said errors corrected according to law.

Dated this _____ day of _____

A. B.,
Clerk of

R. S. O. 1877, c. 9, Form 2.

FORM 3.

(Section 9.)

CLERK'S NOTICE OF FIRST POSTING OF VOTERS' LIST.

*Voters' List, 18____.—Municipality of the _____ of _____
County of _____*

Notice is hereby given, that I have transmitted or delivered to the persons mentioned in sections 5 and 6 of *The Voters' Lists Act*, the copies required by said sections to be so transmitted or delivered of the list, made pursuant to said Act, of all persons appearing by the last revised Assessment Roll of the said Municipality to be entitled to vote in the said Municipality at Elections for members of the Legislative Assembly and at Municipal Elections; and that said list was first posted up at my office, at _____, on the _____ day of _____, 18____, and remains there for inspection.

Electors are called upon to examine the said list, and, if any omissions or any other errors are found therein, to take immediate proceedings to have the said errors corrected according to law.

Dated, &c.

A. B.,
Clerk of

R. S. O. 1877, c. 9, Form 3.

FORM 4.

(Section 10, Sub-sec. 2.)

VOTER'S NOTICE OF COMPLAINT ON GROUND OF DISQUALIFICATION.

To the Clerk of the Municipality of the _____ of _____

I, *Angus Bell*, a voter (or a person entitled to be a voter) in the said Municipality (or for the Electoral District in which the Municipality is situated), complain that the name of *John Jack* is wrongly entered in the Voters' List for the said Municipality, he being a person disqualified under the _____ section of *The Ontario Election Act*: And take notice, that I intend to apply to the Judge in respect thereof, in pursuance of the statute in that behalf.

Dated the _____ day of _____ 18 _____

ANGUS BELL,

Residence—Township of *York*.

R. S. O. 1877, c. 9, Form 4.

FORM 5.

(Section 10, Sub-sec. 3.)

NOTICE AND APPLICATION BY VOTER WHO HAS ACQUIRED PROPERTY
SINCE ASSESSMENT.

To the Clerk of the Municipality of the _____ of _____

I, *Luke Doran*, a person entitled to be a voter in the said Municipality, complain that the name of *Peter Short* is wrongly inserted in the Voters' List for the said Municipality, he having before the final revision and correction of the Assessment Roll transferred to me the property in respect to which his name is entered on the said List (or parted with the property in respect to which his name is entered on the Voters' List, and that I am in possession of the same): And take notice, that I intend to apply to the Judge to have my name entered on the said List, instead of the said *Peter Short*, pursuant to the provisions of the statute in that behalf.

Dated the _____ day of _____ 18 _____

LUKE DORAN.

R. S. O. 1877, c. 9, Form 5.

FORM 6.

(Section 13, Sub-sec. 1.)

VOTER'S NOTICE OF COMPLAINT.

To the Clerk of the Municipality of the _____ of _____

I, *James Smith*, a voter (or person entitled to be a voter) for the Electoral District of _____, in which the said Municipality is situated, complain

(state the names of the persons in respect to whom complaint is made, and the ground of complaint touching each person respectively—or set forth in lists as follows, varying according to circumstances), that the several persons whose names are set forth in the subjoined list No. 1 are entitled to be voters in the said Municipality, as shewn in said list, but are wrongfully omitted from the Voters' List: That the several persons whose names are mentioned in the first column of the subjoined list No. 2 are wrongly stated in the said Voters' List, as shewn in said list No. 2:—That the several persons whose names are set forth in the first column of the subjoined list No. 3 are wrongfully inserted in the said Voters' List, as shewn in said list No. 3:—And that there are errors in the description of the property in respect to which the names respectively are entered on the Voters' List (or stating other errors), as shewn in the subjoined list No. 4:—And take notice, that I intend to apply to the Judge in respect thereof, pursuant to the statute in that behalf.

Dated the day of 18

JAMES SMITH,
Residence—Township of *Beby*.

Lists of Complaints mentioned in the above Notice of Complaint.

LIST No. 1 (*shewing voters wrongfully omitted from the Voters' List.*)

NAMES OF PERSONS.	GROUNDS ON WHICH THEY ARE ENTITLED TO BE ON THE VOTERS' LIST.
James Tupper	Tenant to John Fraser, of N. $\frac{1}{2}$ lot 1, 2nd Con.
Simon Beauclerk..	Owner in fee of N. W. $\frac{1}{4}$ lot 6, in 8th Con.
Angus Blain.....	Assessed too low—property worth \$

LIST No. 2 (*shewing voters wrongly named in Voters' List.*)

NAMES OF PERSONS.	POLLING SUB-DIVISION.	PART OF LIST.	THE ERRORS IN STATEMENT UPON VOTERS' LIST.
Joshua Townsend.	2	1	Should be <i>Joseph</i> Townsend.
John McBean	4	1	Should be John McBean <i>the younger</i> .
S. Connell.....	3	2	Should be <i>Simon</i> O'Connell. &c., &c.

LIST No. 3 (*shewing persons wrongfully inserted in the Voters' List.*)

NAMES OF PERSONS.	POLLING SUB-DIVISION.	PART OF LIST	STATEMENT WHY WRONG FULLY INSERTED IN VOTERS' LIST.
Peter White	4	1	Died before final revision of roll.
John May	3	2	Tenancy expired—left the country.
David Walters....	2	2	Assessed too high—property worth under \$ etc., etc.

LIST No. 4 (*showing voters whose property is erroneously described in Voters' List, etc.*)

NAMES OF PERSONS.	POLLING SUB-DIVISION.	PART OF LIST.	ERRORS IN RESPECT TO PROPERTY OR OTHERWISE STATED.
Stephen Washburn	3	2	Name should be in Sub-division No 2.
Thomas Gordon ..	2	1	Property should be W. $\frac{1}{2}$ lot 7, in 3rd Con.
Ronald Blue.....	4	2	Should be described as owner, not tenant.

R. S. O. 1877, c. 9, Form 6.

FORM 7.

(Section 13.)

CLERK'S REPORT IN CASE OF APPEALS AND COMPLAINTS TO THE JUDGE.

To His Honour the Judge of the County Court of the County of

The Clerk of the Municipality of _____ states and reports that the several persons mentioned in column 1 of the Schedule below, and no others, have each given to him (*or* left for him at his residence *or* place of abode, *as the fact may be*) written notice complaining of errors or omissions in the Voters' List for the said Municipality for 18____, on the grounds mentioned in column 2 of the said Schedule, and that such notices were received respectively at dates set down in column 3 of the said Schedule.

Dated, &c.

A. B.,
Clerk of

Schedule.

1. NAME OF COMPLAINANTS.	2. ERRORS OR OMISSIONS COM- PLAINED OF	3. DATE WHEN NOTICE OF COM- PLAINT RECEIVED BY CLERK.

R. S. O. 1877, c. 9, Form 7.

FORM 8.

(Section 13.)

JUDGE'S ORDER APPOINTING COURT FOR HEARING COMPLAINTS AND APPEALS.

To _____, Clerk of the Municipality of the

Upon reading your report and notification respecting the Voters' List for the said Municipality for 18____, pursuant to the statute in that behalf,

I appoint the _____ of _____ 18____, at the hour of _____ at _____ in the said County, for holding a Court to hear and determine the several complaints of errors and omissions in the said Voters' List, of which due notice has been given.

You are constituted Clerk of the Court.

You will advertise the holding of such Court, and post up in your office, or the place in which the Council hold their sittings a list of all complaints of errors and omissions in the said Voters' List; and you will notify all parties concerned according to law.

Let the Assessor for the Municipality attend the sittings of the said Court, and let the original Assessment Roll of the Municipality for 18____, and the minutes of the Court of Revision for the Municipality for 18____, be produced before me or the Acting Judge, on the day and at the place above mentioned.

Dated _____ day of _____ 18____.

Judge C. C.

R. S. O. 1877, c. 9, Form 8.

FORM 9.

(Section 13.)

NOTICE TO BE POSTED BY CLERK IN HIS OFFICE WITH LIST OF COMPLAINTS.

Notice is hereby given, that a Court will be held, pursuant to *The Voters' Lists Act*, at _____, on the _____ day of _____ 18____, at _____ o'clock, _____ for the purpose of hearing all complaints made against the Voters' List for the Municipality of _____ for 18____, particulars of which complaints are shewn in the subjoined Schedule.

All persons having business at the Court are hereby required to attend at the said time and place.

Dated, &c.

A.B.,

Clerk of

Schedule.

NAME OF PARTY COMPLAINING.	NAME OF PERSON IN RESPECT TO WHOM APPEAL WAS MADE.	GROUND OF COMPLAINT ALLEGED.
_____	_____	_____
_____	_____	_____
_____	_____	_____

R. S. O. 1877, c. 9, Form 9.

FORM 10.

(Section 13, Sub-sec. 3.)

CLERK'S ADVERTISEMENT OF COURT IN NEWSPAPER.

Notice is hereby given, that a Court will be held, pursuant to *The Voters' Lists Act*, by His Honour the Judge of the County Court of the County of , at , on the day of 18 , at o'clock, to hear and determine the several complaints of errors and omissions in the Voters' List of the Municipality of for 18 .

All persons having business at the Court are required to attend at the said time and place

Dated, &c.

A. B.,

R. S. O. 1877, c. 9, Form 10.

Clerk of

FORM 11.

(Section 13.)

CLERK'S NOTICE TO PARTY COMPLAINING.

The Voters' Lists Act.

You are hereby notified that, pursuant to the Statute in that behalf, a Court for the Revision of the Voters' List, 18 , for the Municipality of , will be held by the Judge (*or acting Judge*) of the County Court of the County of , at , on the day of , 18 , at o'clock, at which Court all complaints duly lodged of any error or omission in the said List will be heard and determined. A list of said complaints is posted up in and you are hereby required to be and appear at such Court; and take notice, that the Judge may proceed to hear and determine the complaints, whether the parties complaining appear or not.

By order of his Honour the Judge of the County Court of the County of

Dated day of 18 .

To

A person complaining of error in the
said Voters' List }

A. B.,

Clerk of the Municipality of
constituted Clerk of said Court , and

R. S. O. 1877, c. 9, Form 11.

FORM 12.

(Section 13.)

CLERK'S NOTICE TO PARTY COMPLAINED AGAINST.

The Voters' Lists Act.

You are hereby notified that, pursuant to the Statute in that behalf a Court for the Revision of the Voters' List, 18 , for the Municipality of , will be held by the Judge (or acting Judge) of the County Court of the County of , at , on the day of , 18 , at o'clock, and you are required to appear at the said Court, for that has complained that your name is wrongly inserted in the said Voters' List (because, etc., *state matter of complaint concisely*). A list of all complaints lodged is posted up in ; and take notice, that the Judge may proceed to hear and determine the said complaint, whether you appear or not.

By order of his Honour the Judge of the County Court of the County of

To

Entered on said Voters' List.

A. B.,
Clerk of the said Municipality, and constituted
Clerk of the said Court.

R. S. O. 1877, c. 9, Form 12.

FORM 13.

(Section 14.)



SUBPENA.

ONTARIO :
County of ,
To Wit.

}, VICTORIA, by the Grace of God, of the United
Kingdom of Great Britain and Ireland Queen,
Defender of the Faith.

To

Greeting :

We command you, that, all excuses being laid aside, you be and appear in your proper person before our Judge of our County Court of the County of , at , on the day of , 18 , at o'clock in the noon, at a Court appointed, and there and then to be held, for hearing complaints of errors in the Voters' List for 18 , of the Municipality of the of , in the County of , and for revision of the said Voters' List, then and there to testify to all and singular those things which you know in a certain matter (or matters) of complaint made and now depending before the said Judge, under *The Voters' Lists Act*, wherein one is complainant, and which complaint is to be tried at the said Court. Herein fail not.

Witness, His Honour
the day of

, Judge of our said Court at
, in the year of our Lord 18 .

A. B.,
Clerk.

R. S. O. 1877, c. 9, Form 13.

FORM 14.

(Section 16.)

REPORT OF CLERK WHEN APPLYING FOR CERTIFICATE UNDER
SECTION 16.

To the Judge of the County Court of the County of _____.

I, _____, Clerk of the Municipality of _____, in the
said County of _____, do hereby certify as follows :

That I did, on the _____ day of _____, 18____, post up,
and for a period of thirty days next thereafter keep posted up, in a con-
spicuous place in my office at _____, a true and correct printed copy
of the Voters' List for the said Municipality of _____ for 18____,
made in pursuance of *The Voters' Lists Act*, with the certificate required
by section 7 of the said Act endorsed thereon.

That I did also duly deliver and transmit by post, by registered letter
(or, by parcel post registered), the required number of similar printed
copies of the said Voters' List, with my certificate endorsed, to each
and all of the persons entitled to the same under sections 5 and 6 of said
Act.

That I did on the _____ day of _____, 18____, cause to be in-
serted in the newspaper called the "_____" published
in _____, the notice required by section 9 of the said
Act.

That no person gave me nor did I receive any written notice of complaint
and intention to apply to the Judge or Junior or acting Judge of the
County Court of said County of _____ in respect to the said Voters' List
within thirty days after I, the said Clerk, had posted up the said List in
my office, as directed by the provisions of the said Act.

And that to the best of my knowledge and belief, I have complied with
the several requirements of the said Act, so as to entitle me to apply for
certified copies under section 16 of the said Act and I do hereby,
in pursuance thereof, now apply to you the said Judge to certify three of
the copies of the said List received by you as being the Revised List of
Voters for the Municipality of the said _____ of
for the year of our Lord 18____.

Witness my hand this _____ day of _____ 18____.

Clerk of the Municipality of _____

P. O.

R. S. O. 1877, c. 9, Form 14.

FORM 15.

(Section 16.)

CERTIFICATE OF NO COMPLAINTS.

County of _____

A. B., Clerk of the Municipality of the _____
_____, having certified under his hand that no complaint respect-
ing the List of Voters for said Municipality, for the year, 18____, had been

received by him within thirty days after the first posting up of the same ; and on application of the Clerk,

I, _____, Judge of the County Court of the County of _____ in pursuance of the provisions of *The Voters' List Act* certify that the annexed printed List of Voters, being one of the copies received by me from the said Clerk, under section 5 of the said Act, is the Revised List of Voters for the said Municipality for the year 18 ____.

Given under my hand and seal, at _____, this _____ day of _____, 18 ____.

Judge.

R. S. O. 1877, c. 9, Form 15.

FORM 16.

(Section 17.)

STATEMENT OF ALTERATIONS BY JUDGE.

Be it remembered, that upon a final revision and correction of the List of Voters of the Municipality of the _____ of _____ for the year 18 ____, pursuant to the provisions of *The Voters' Lists Act*, the following changes were duly made by me in the copies of the said list received by me from the Clerk of the said Municipality, viz.:

1. The following persons are added to the said List :—

NAME.	POLLING SUB-DIVISION.	PART OF LIST.	PROPERTY.

2. The following persons are struck off the said List :—

NAME.	POLLING SUB-DIVISION.	PART OF LIST.	PROPERTY.

3. The following changes are made in the property described opposite to the names of voters otherwise correctly inserted :—

NAME.	POLLING SUB-DIVISION.	PART OF LIST.	PROPERTY AS ORIGINALLY DESCRIBED ON LIST.	PROPERTY AS ALTERED.

4. The following changes are made in the names of voters incorrectly named :

NAME ORIGINALLY ON LIST.	POLLING SUB-DIVISION.	PART OF LIST.	NAME AS ALTERED.	PROPERTY.

Witness my hand this day of A.D. 18 .
County Judge, County of
R. S. O. 1877, c. 9, Form 16.

FORM 17.
(Section 17.)

CERTIFICATE OF JUDGE.

I, , Judge of the County Court of the County of , pursuant to section 17 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a corrected copy of the List of Voters, for the year 18 , received by me from the Clerk of the Municipality of the of , according to my revision and correction thereof, pursuant to the provisions of the said Act.

Dated at , this day of , 18 .
Judge.
R. S. O. 1877, c. 9, Form 17.

FORM 18.
(Section 29).

ORDER FOR PAYMENT OF COSTS.

The Voters' Lists Act.

In the matter of the Voters' List for the Municipality of , 18 , and of the complaint and appeal to the Judge of the County Court of the County of , by A. B., complaining of the name of C. D. being wrongly inserted in the said List (*or, as the case may be, stating in brief the nature of the complaint*).

On proceedings taken before me, pursuant to the said Act, I find and adjudge that the name of the said C. D. was rightly inserted in the said List (*or, was wrongly inserted in the said List*), and order that the said A. B. do pay the said C. D. his costs occasioned by the said complaint (*or, and order that the said C. D. shall pay the said A. B. his costs incident to the said complaint,—or, and order that E. F., the Assessor of the said Municipality, being blameable for such wrong insertion, do*

pay the said *A. B.* his costs incident to the said complaint,—*or, as the order may be, stating it in brief*), said costs to be taxed pursuant to the said Act.

Dated at _____, this _____ day of _____ 18

Judge.

R. S. O. 1877, c. 9, Form 18.

FORM 19.

(Section 30.)

WRIT OF EXECUTION.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the _____

GREETING :

We command you that of the goods and chattels in your bailiwick of *C. D.*, you cause to be made \$ _____, for certain costs which lately by an order of His Honour _____, Judge of the County Court of _____, dated the _____ day of _____, 18 _____, were ordered to be paid by the said *C. D.* to *A. B.*, as and for his costs sustained by him on the trial of a complaint against the Voters' List for the Municipality of _____, in the said County, for 18 _____, made and prosecuted under the provisions of *The Voters' Lists Act*, which said costs have been taxed and allowed at the said sum, as appears of record; and have that money before Our Judge of Our said Court at _____ immediately after the execution hereof; and in what manner you shall have executed this Our writ, make appear to Our Judge aforesaid at _____ immediately after the execution thereof, and have you there then this writ.

Witness, His Honour _____, Judge of Our said Court, at _____, the _____ day of _____, in the year of our Lord 18 _____.

A. B., Clerk.

R. S. O. 1877, c. 9, Form 19.

FORM 20.

(Section 32.)

ORDER FOR ASSESSMENT OF PERSONS OMITTED FROM ROLL, &c.

In the matter of assessment for the year 18 _____, in the Municipality of _____

The persons mentioned in the first column of the Schedules following not being assessed, or not being sufficiently assessed, on the Assessment Roll of the Municipality of _____, for the year 18 _____, and having been found entitled to vote, on proceedings taken before me, _____ Judge of the County of _____, under *The Voters' Lists Act*—In pursuance of section 32 of the said Act, it is adjudged that

the said parties mentioned in the first columns of the following Schedules respectively should have been assessed for the sums mentioned in the second columns respectively opposite their respective names, in respect to the land or other property or qualification mentioned in the third columns of said Schedules respectively opposite the respective names of said parties, and it is ordered that the said parties should be assessed accordingly.

Dated the

day of

A.D. 18 .

Judge.

Schedule 1.

Column 1.	Column 2.	Column 3.
Names of persons liable to have been assessed on the Assessment Roll for the Municipality of for the year 18 , but not assessed.	Amount for which the parties should have been assessed.	Property in respect to which the liability to assessment exists.

Schedule 2.

Column 1.	Column 2.	Column 3.
Names of persons not sufficiently assessed on the Assessment Roll for the Municipality of for the year 18 .	Amount for which the parties should be assessed in addition to the amount already on the Assessment Roll.	Property in respect to which the liability to assessment exists.

R. S. O. 1877, c. 9, Form 20.

FORM 21.

(Section 34.)

APPLICATION TO JUDGE AGAINST DELINQUENT CLERK.

Pursuant to section 34 of *The Voters' Lists Act*, I, *A. B.*, Clerk of the Peace for the County of (or, a person entitled to be named as an elector on the Voters' List for the Municipality of , for 18 ,) hereby inform His Honour the Judge of the County Court of the said County, that *C. D.*, Clerk of the Municipality of , in the said County, has failed to perform the duties required of him as such Clerk by the said Act, in this, that he the said *C. D.* has not made out the Alphabetical List of Voters for 18 , for the said Municipality, within thirty days after the final revision and correction

of the Assessment Roll thereof (*or, has not delivered or transmitted printed copies of the Voters' List for the said Municipality, for 18 , to and or to any of them or, as the case may be, stating in brief the duty not performed*), according to the requirements of the said Act; and I apply to you the said Judge to enforce the performance of the duties aforesaid, and to take such other proceedings as may be necessary. *

Dated at , this day of 18 .
A. B.,
Clerk of the Peace.

R. S. O. 1877, c. 9, Form 21.

FORM 22.

(Section 34, Sub-sec. 3.)

SUMMONS.

The Voters' Lists Act.

In the matter of the Voters' List for the Municipality of in the County of , for 18 .

Whereas it appears by the application of *A. B.*, the Clerk of the Peace for the said County (*or, a person entitled to be named as an elector on the said List*), made to me, in pursuance of the said Act, that you, *C. D.*, the Clerk of the said Municipality, have failed to perform certain duties required of you by the said Act, in this, that you have not made out the Alphabetical List of Voters for 18 , for the said Municipality, within thirty days after the final revision and correction of the Assessment Roll thereof (*or, as the case may be, following the application*); and whereas the said *A. B.* has applied to me to enforce the performance of the duties aforesaid;

You, the said *C. D.*, are therefore hereby required to be and appear before me at my Chambers, in , on the day of , 18 , at the hour of , and then and there have with you and produce before me the Assessment Roll for 18 , for the said Municipality, and any documents in your custody, power or control, relating to the Assessment Roll, or to the Voters' List aforesaid; and then and there submit yourself for the examination on oath as may be required of you. Herein fail not at your peril.

Dated this day of 18 .

To *C. D.*,
 Clerk of the Municipality of

J. J. J.

R. S. O. 1877, c. 9, Form 22.

CHAPTER 9.

An Act respecting Elections of Members of the Legislative Assembly.

- SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 QUALIFICATION OF MEMBERS, s. 3.
 QUALIFICATION OF VOTERS, ss. 4-7.
 POLLING SUBDIVISIONS, ss. 8-14.
 RETURNING OFFICERS, ss. 15-22.
 GENERAL ELECTIONS, TIME OF POLLING, ETC., ss. 23-26.
 ISSUE OF WRIT, s. 27.
 PROCEEDINGS ON RECEIPT OF WRIT, ss. 28-46.
 Proclamation of Nomination Day, ss. 29-37.
 Preparation of polling places, ss. 38, 39.
 Procuring ballot boxes, s. 40.
 Oath to be taken by Returning Officer, s. 41.
 Appointment of Election Clerk, ss. 42-46.
 PROCEEDINGS ON THE NOMINATION DAY, ss. 47-51.
 WITHDRAWAL OF CANDIDATES AFTER NOMINATION, ss. 52, 53.
 PROCEEDINGS WHEN A POLL IS GRANTED, ss. 54-57.
 PROCEEDINGS PRELIMINARY TO THE POLL, ss. 58-84.
 Appointment of Deputy-Returning Officers, ss. 58-62.
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 Procuring ballot boxes, ss. 66, 67.
 Procuring directions to voters, ss. 68, 69.
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 PROCEEDINGS AFTER THE CLOSE OF THE POLL, ss. 106-117.
 Counting of votes by Deputy-Returning Officer, ss. 106-109.
 Return of documents to Returning Officer, ss. 110-115.
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Election Act*," R. S. O. 1877, c. 10, s. 1.

INTERPRETATION.

Interpretation.

2. Where the words following occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

"Owner."

1. "Owner" shall signify and mean proprietor, either in his own right or in the right of his wife, of an estate for life, or any greater estate, either legal or equitable.

"Occupant."

2. "Occupant" shall signify and mean a person *bona fide* occupying property otherwise than as owner or tenant, either in his own right or in the right of his wife, but being in possession of such property and enjoying the revenues and profits arising therefrom to his own use.

"Tenant."

3. "Tenant" shall include any person who, instead of paying rent in money, is bound to render to the owner any portion of the produce of such property.

"Landholder."

4. "Landholder" shall mean and include:

(a) A person who being the owner of and residing and domiciled upon real property of at least twenty acres in extent, or of at least an actual value in cities and towns of \$400, and in townships and incorporated villages of \$200, is, in the last revised assess-

ment roll of the municipality where such property is situate, entered and assessed as owner of said property of at least the number of acres or the assessed value aforesaid, and

- (b) A person actually residing and domiciled in a dwelling house as tenant thereof, where the dwelling house and the land, if any, held therewith by such person as tenant is of at least an actual value in cities and towns of \$400, and in townships and incorporated villages of \$200, and is at not less than such value entered and assessed in the name of such person in the last revised assessment roll of the municipality wherein the same is situate.

5. "Landholder's son" shall mean and include a son, step-son, "Landholder's grandson, or son-in-law, as the case may be, of any landholder. son." 48 V. c. 2, s. 2 (1-5).

6. "Wage-earner" shall mean a person entitled to be "Wage-earner." entered in the last revised assessment roll of a city, town, incorporated village or township, as being a wage-earner within the meaning of *The Assessment Act* or any Act amending the same. 49 V. c. 3, s. 1.

7. "Dwelling-house" shall mean and include a part of a "Dwelling-house when that part is separately occupied and resided in house." as a dwelling, and also any land where such land is separately occupied or resided upon as and is a part of the premises belonging to and used with the dwelling.

8. "Householder" shall mean a person entered in the revised "Householder." assessment roll of a city, town, township or incorporated village as sole tenant and occupant of and actually resident in a dwelling-house situate therein, but shall not mean nor include

- (a) A person who is so entered or who is actually a joint tenant or occupant of the dwelling-house with another person; nor

- (b) A person who is a mere lodger or boarder in a house.

9. "Local municipality" shall mean and include a city, "Local Municipality." town, incorporated village or township, as the case may be.

10. "Election" shall mean an election of a member to serve "Election." in the Legislative Assembly.

11. "To vote" shall mean to vote at the election of a "To vote." member of the Legislative Assembly.

12. "Electoral district" shall mean a county or other place "Electoral district." or portion of this Province, entitled to return a member to the Legislative Assembly.

"Voters' list." 13. "Voters' list" shall mean the copy of the voters' list furnished in accordance with section 55 of this Act.

"Last revised assessment roll." 14. "Last revised assessment roll" shall mean the last revised assessment roll of a city, town, incorporated village or township.

"Corrupt practice." 15. "Corrupt practices," or "Corrupt practice," shall mean bribery, treating and undue influence, or any of such offences as defined by this or any Act of the Legislature, or recognized by the Common Law of the Parliament of England; also a violation of sections 153, 157, or 159 of this Act, and a violation of section 161 of this Act during the hours appointed for polling. 48 V. c. 2, s. 2.

"Candidate," and saving for persons nominated without consent. 16. "Candidate at an Election" and "Candidate" shall mean a person elected at an election to serve in the Legislative Assembly, and a person who is nominated as a candidate at such election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for such election, or after the dissolution or vacancy in consequence of which the writ has been issued; provided that where a person has been nominated as a candidate, or declared to be a candidate by others, then—

(a) If he was so nominated or declared without his consent, nothing in this Act shall be construed to impose any liability on such person, unless he has afterwards given his assent to his nomination or declaration or has been elected. 47 V. c. 4, s. 43. (See c. 10, s. 2 (5).)

QUALIFICATION OF MEMBERS.

No property qualification for members.

3. No qualification in real estate shall be required of a candidate for a seat in the Legislative Assembly. R. S. O. 1877, c. 10, s. 3.

QUALIFICATION OF VOTERS.

Who shall not Vote.

Persons disqualified from voting.

4. Judges of the Supreme Court of Judicature for Ontario, County Judges, Officers of the Customs of the Dominion of Canada, Clerks of the Peace, County Attorneys, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown, and Agents for the sale of Crown Lands, Postmasters in cities and towns, Stipendiary Magistrates, and Officers employed in the collection of duties payable to Her Majesty in the nature of duties of excise, shall be disqualified and incompetent to vote at any election;

Penalty.

If a public officer or person mentioned in this section votes at an election, he shall thereby forfeit the sum of \$2,000, and his

vote at the election shall be null and void. R. S. O. 1877, c. 10, s. 4; 46 V. c. 2, s. 10.

5.—(1) No Returning Officer or Election Clerk, and no person who, at any time, either during the election or before the election, is or has been employed at the election or in reference thereto, or for the purpose of forwarding the same, by a candidate or by any person whomsoever, as counsel, agent, solicitor, or clerk, at a polling place at the election, or in any other capacity whatever, and who has received or expects to receive, either before, during or after the said election, from any candidate or from any person whomsoever, for acting in such capacity as aforesaid, any sum of money, fee, office, place of employment, or any promise, pledge or security whatever therefor, shall be entitled to vote at the election. Certain officers and persons not to vote.

(2) The preceding provision shall not apply to Deputy-Returning Officers and Poll Clerks appointed under this Act and receiving as such the fees to which officers are entitled under this Act. R. S. O. 1877, c. 10, s. 5.

6. No woman shall be entitled to vote at an election under this Act. R. S. O. 1877, c. 10, s. 6. Women not to vote.

Who may Vote.

7. The following persons, and no others, being males and of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified under the preceding sections, or otherwise by law prevented from voting, shall, if duly entered on the list of voters proper to be used at the election then pending, according to the provisions of *The Voters' Lists Act*, or of this Act, be entitled to vote at elections of members to serve in the Legislative Assembly of this Province, that is to say:— Who may vote at elections.

Firstly.—Every male person who at the time of the election is a resident of and domiciled within the Electoral District for which he claims to vote, and who was at the time of the final revision and correction of the assessment roll entered on the revised assessment roll, upon which the voters' list is based for any city, town, incorporated village or township, for real property of the value hereinafter mentioned. Real property qualification.

In cities and towns, \$200;

In incorporated villages and townships, \$100;

Value of real property necessary.

(a) Where real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, then each of them shall be deemed rated within this Act, otherwise none of them shall be deemed so rated. Joint owners.

Income
franchise.

Secondly.—Every male person who is residing at the time of the election in the Electoral District in which he tenders his vote and has resided therein continuously since the completion of the last revised assessment roll of the municipality, and derives an income from some trade, occupation, calling, office or profession of not less than \$250 annually, and has been assessed for such income in and by the assessment roll of the municipality upon which the voters' list used at the election is based.

Wages
franchise.

Thirdly.—Every male person entered on the last revised assessment roll as a wage-earner who is residing at the time of the election in the Electoral District in which he tenders his vote, and has resided therein continuously since the completion of the last revised assessment roll of the municipality, and who has during the twelve months next prior to being so entered, derived or earned wages or income from some trade, occupation, calling, office, or profession of not less than \$250.

(a) In estimating or ascertaining the amount of wages or income so earned or derived by a person so entered as a wage-earner in the assessment roll of a municipality, not being a city, town or village, the fair value of any board or lodging furnished or given to or received or had by him as or in lieu of wages or as part thereof shall be considered or included.

Householder.

Fourthly.—Every male person entered as a householder in the last revised assessment roll of the local municipality in which he tenders his vote, who is residing at the time of the election in the Electoral District in which he tenders his vote, and has resided there continuously since the completion of the last revised assessment roll.

Landholders'
sons.

Fifthly.—Every landholder's son who is resident at the time of the election in the Electoral District in which he tenders his vote, and has resided therein with and in the residence or dwelling of the landholder whose son he is, for twelve months next prior to the return by the assessors of the assessment roll on which the voters' lists used at the election is based, and who has been duly entered and named in said assessment roll as such landholder's son.

(a) Occasional or temporary absence from such residence or dwelling for a time or times not exceeding in the whole six months of the twelve hereinbefore mentioned, shall not operate to disentitle a landholder's son to vote under this Act. The time spent by a landholder's son as a mariner or fisherman, in the prosecution of his occupation, or as a student in an institution of learning situate within the Province of Ontario, shall be considered as spent at home, and as having, for the purposes of this Act, been spent and passed with and in the residence as aforesaid of the landholder whose son he is.

Sixthly.—Where there is a voters' list, Indians, or persons ^{Indians.} with part Indian blood, who have been duly enfranchised, and Indians or persons with part Indian blood who do not reside among Indians, though they participate in the annuities, interest, moneys and rents of a tribe, band or body of Indians, subject to the same qualifications in other respects, and to the same provisions and restrictions as other persons in the electoral district ;

(a) But the Indians or persons with part Indian blood who are entitled to vote where there is no voters' list shall be only the following, namely :—
Indians, or persons with part Indian blood, who have been duly enfranchised, and unenfranchised Indians or persons with part Indian blood who do not participate in the annuities, interest, moneys, or rents of a tribe, band or body of Indians, and do not reside among Indians, subject to the same qualifications in other respects, and to the same provisions and restrictions, as other persons in the electoral district.

(b) Where there is no voters' list a person alleged by a candidate, or the agent of a candidate, to be an Indian, or person with part Indian blood, shall, if required by the candidate or agent, or by the returning officer, take the following oath or affirmation in addition to any other oath required by a voter under the law :—

You swear that you do not participate in the annuities, interests, moneys or rents of any tribe, band or body of Indians, and do not reside among Indians.

Or, at his option, the following :—

You swear that you are not an Indian, nor a person with part Indian blood.

Seventhly.—In such of the municipalities, townships and places ^{In Algoma,} in the Electoral Districts of Algoma East, Algoma West, ^{etc.} East Victoria, East Peterborough, North Hastings, North Renfrew, South Renfrew, Muskoka and Parry Sound as have no assessment roll, and subject to the provisions hereinafter contained, every male person of the full age of twenty-one years, being a subject of Her Majesty by birth or naturalization, and being not otherwise disqualified, who is at the time of the election a resident of and domiciled within the Electoral District for which he claims to vote, and is actually and *bona fide* owner of real estate in the electoral district of the value of \$200 or upwards, or who is at the time of the election a resident householder of the place, and has been the owner or householder for the six months next preceding the election.

(a) A person is not an owner within the meaning of the provision designated seventhly, where the

land of which he claims to be owner has never been granted or patented by the Crown, and a person who is a mere lodger or boarder in a house is not a "resident householder" in respect of such house.

- (b) In any part of the Electoral District of Algoma West, Algoma East, Muskoka, or Parry Sound in which there is no assessment roll or voters' list, residence by an owner shall be necessary for the same period as residence by a householder, in order to qualify a voter.

Eighthly.—No person shall be entitled to vote in unorganized territory on property which is wholly or partly in an organized municipality. 48 V. c. 2, s. 3; 49 V. c. 3, s. 2.

SUBDIVISIONS FOR POLLING PLACES.

Cities, etc., to be divided into polling subdivisions.

8.—(1) Every city, town, ward, township or incorporated village, having more than two hundred qualified voters therein shall be divided by well defined boundaries, such as streets, side lines, concession lines or the like, in the most convenient manner into polling subdivisions by by-law of the municipal council having jurisdiction over the locality, and in such manner that the number of qualified electors in the several polling subdivisions shall be as nearly equal as may be, and shall not in any one exceed two hundred.

Polling subdivisions to be same as for municipal elections.

(2) Where a municipality is divided into polling subdivisions, the same polling subdivisions shall be used both for the election of members of the Legislative Assembly and for municipal elections; and the polling subdivisions for elections to the Legislative Assembly and municipal elections, shall hereafter be made the same in all cases, except that the municipal council of every city, town, or incorporated village, may by by-law unite, for the purposes of municipal elections, any two adjoining polling subdivisions. R. S. O. 1877, c. 10, s. 11.

Alteration of subdivisions.

(3) Any alteration of existing polling subdivisions, or creation of new polling subdivisions, shall be made before the publication of the voters' lists.

(4) For the purpose of enabling the council to make the required alterations, the clerk of the municipality, as soon as he finds that the number of qualified voters in a subdivision exceeds two hundred, shall call the attention of the council to the fact.

(5) In case, through oversight or from other cause, such alterations have not been made prior to the publication of the lists, the alteration in the polling subdivisions shall be made forthwith thereafter, but shall not take effect until the next

voters' lists are being made out, and shall not affect the voting on or with respect to any previous voters' lists.

(6) It shall not be necessary for a Returning Officer to re-divide a polling subdivision, on account of the same containing more than two hundred voters, so long as it does not contain more than three hundred; but if it contains more than three hundred, he shall divide it into two subdivisions.

(7) Nothing in this section contained shall be held to relieve the council of a municipality from the duty of making a new division of the voters into polling subdivisions, or re-dividing a subdivision as often as the number of qualified voters in a polling subdivision exceeds two hundred. 46 V. c. 2, s. 2.

9. Whenever the number of qualified voters in a polling sub-division increases so as to exceed two hundred, or whenever the municipal council consider that the convenience of the electors would be promoted by a new and different subdivision, the city, town, ward, township or incorporated village, shall be again in like manner divided into polling subdivisions so as to conform to the intent and meaning of this Act, and so again, from time to time, as like occasion shall require. R. S. O. 1877, c. 10, s. 12.

New subdivision to be made when necessary.

10. Every division made under the next preceding two sections shall be based upon the then last revised and corrected assessment roll of the city, town, ward, township, or incorporated village. R. S. O. 1877, c. 10, s. 13.

Subdivisions to be based on assessment.

11. At any time within two months after the filing of the by-law, an appeal shall lie from any subdivision, at the instance of five of the electors, to the Judge of the County Court, who shall promptly correct the sub-division so as to conform to the true intent and meaning of this Act. R. S. O. 1877, c. 10, s. 14.

Appeal.

12. The subdivisions shall be numbered consecutively in and by the by-law by which they are established, and a copy of the by-law, certified under the seal of the corporation to be a true and correct copy, and signed by the head or clerk of the municipality, shall be forthwith, after the making thereof, transmitted to and filed in the office of the Clerk of the Peace of the county or union of counties within which the municipality is situate. R. S. O. 1877, c. 10, s. 15.

Subdivisions to be numbered.

13. In case of failure on the part of a municipal council to divide a city, town or other local municipality into polling subdivisions proportioned to the number of electors, as hereinbefore provided, or in case the time to appeal from the division should not have expired before the receipt of the writ, the Returning Officer shall provide as many polling places for polling the votes of the electors in the city, town or other

Duty of Returning Officer in case polling subdivisions have not been established.

local Municipality, as shall correspond as nearly as may be, with the number of polling places which would have been required if the city, town or other local municipality had been subdivided into the proper number of polling subdivisions. R. S. O. 1877, c. 10, s. 16.

Remuneration
to returning
Officer for
making
polling sub-
divisions.

14. In case it is necessary for a Returning Officer to divide a Municipality or any part thereof into polling subdivisions, he shall be paid by the treasurer of the municipality a reasonable allowance therefor. R. S. O. 1877, c. 10, s. 17.

RETURNING OFFICERS.

Appointment
of Returning
Officers.

15. No commission shall be required for the appointment of a person to be a Returning Officer at any election for a member to serve in the Legislative Assembly, but the direction of a writ of election to a person named therein as Returning Officer shall be a sufficient appointment of the person as Returning Officer for the election. 42 V. c. 4, s. 7.

Returning
Officer to be
Sheriff or
Registrar.

16.—(1) Every writ for the election of a member of the Legislative Assembly shall be addressed to the Sheriff, or to the Registrar of deeds, or to one of the Sheriffs, or one of the Registrars of deeds, for the electoral district, or some portion of the electoral district for which the election is to take place, and he shall be the Returning Officer at the election.

(2) Not more than one writ of election shall be addressed to the same Returning Officer at one time. R. S. O. 1877, c. 10, s. 18.

In case no
Sheriff or Reg-
istrar.

17.—(1) In case there is no Sheriff or Registrar to whom a writ of election for an Electoral District can be addressed, the writ shall be addressed to such other person as the Lieutenant-Governor may appoint to be Returning Officer. R. S. O. 1877, c. 10, s. 19.

Returning
Officer, where
office of Sheriff
or Registrar is
vacant.

(2) Where a Sheriff or Registrar has died or has been removed from or has resigned his office of Sheriff or Registrar, and his successor has not been appointed, the writ of election which might otherwise have been addressed to the Sheriff or Registrar, shall be addressed to such other person as the Lieutenant-Governor may appoint to be Returning Officer. 46 V. c. 2, s. 3.

Refusal or in-
capacity to
act.

18. In case the person to whom the writ should under the foregoing provisions be addressed, or to whom the writ has been addressed, should refuse to act, or should be absent, or should be incapacitated or unable from sickness or any other cause to act as Returning Officer, the Lieutenant-Governor may appoint some other person as Returning Officer. R. S. O. 1877, c. 10, s. 20.

19. In case a writ has been issued to a person whose appointment is subsequently superseded, a new writ may be issued; or the new Returning Officer may act under the writ already issued, as if the same had been addressed to him; and if valid proceedings have been had under the first appointment, the validity of the proceedings shall not be affected by the new appointment; but the new Returning Officer may appoint a new Election Clerk and new Deputy Returning Officers, if he thinks fit, notwithstanding valid appointments to such offices had already been made by the person previously named as Returning Officer. R. S. O. 1877, c. 10, s. 21.

Case of writ being directed to a person whose appointment is subsequently superseded.

20.—(1) None of the persons hereinafter designated in this section, shall, in any case, be appointed or act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say:—

Persons excluded from being Returning Officers, etc.

- (a) Members of the Executive Council;
- (b) Members of the Parliament of the Dominion of Canada or of the Legislative Assembly of this Province;
- (c) Any Minister, Priest or Ecclesiastic, under any form or profession of religious faith or worship;
- (d) A Judge of a Court having general jurisdiction throughout Ontario, or having local jurisdiction throughout any county or other territorial division;
- (e) Persons who have served in the Legislature of this Province as members of the Legislative Assembly, in the Session next immediately preceding the election in question, or in the then present Session, if the election takes place during a Session of the Legislative Assembly.

(2) If any one of the persons above mentioned in this section is appointed to act and acts as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall thereby incur a penalty of \$200. R. S. O. 1877, c. 10, s. 23.

Penalty.

21. None of the persons hereinafter mentioned in this section, unless they are Sheriffs or Registrars, or Town Clerks or Assessors, shall be obliged to act as Returning Officer or Deputy Returning Officer, or as Election Clerk or Poll Clerk, that is to say:

Exempted persons.

- (a) Physicians and Surgeons;
- (b) Millers;
- (c) Postmasters;
- (d) Persons being sixty years of age or upwards;
- (e) Persons who have previously served as Returning Officers. R. S. O. 1877, c. 10, s. 24.

Penalty for refusal to act.

22. Every Sheriff or Registrar, and every other person having the qualifications required by this Act for acting as Returning Officer, who refuses to perform the duty of Returning Officer at any election as aforesaid, after having received the writ of election, shall, for such refusal, incur a penalty of \$200 ; unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, has in fact claimed exemption by letter to the Clerk of the Crown in Chancery, forwarded within two days next after the receipt of the writ of election, setting forth the grounds of such exemption. R. S. O. 1877, c. 10, s. 25

GENERAL ELECTIONS.

Lieut-Governor to fix days of election and polling in case of a general election.

23. Whenever a new Legislative Assembly is called, and a general election is to be held for that purpose, the Lieutenant-Governor in Council shall fix the day for holding the elections, and shall also fix the day on which the polling shall take place, in cases where a poll is demanded and granted. R. S. O. 1877, c. 10, s. 26.

Time for holding elections and for polling.

24. The day so to be fixed as aforesaid for holding the elections shall not be more than twenty days nor less than sixteen days from the date of the writs of election ; and the day for holding the polls shall not be more than eight, nor less than six days after the day for holding the elections. R. S. O. 1877, c. 10, s. 27.

All general elections on same day.

25. At every general election, the elections for all Electoral Districts throughout the Province shall take place and be held on one and the same day, and the polling at all elections where polls have been demanded and granted, shall also take place on one and the same day, except as provided for in section 36 ; and the respective days so fixed for holding the elections, and for opening and holding the polls, shall be stated and inserted in the proclamation calling the general election, and in the several writs of election in that behalf. R. S. O. 1877, c. 10, s. 28.

Polling on same day.

Date and return of writs for general election.

26. All the writs for a general election of Members of the Legislative Assembly shall be dated on the same day, and need not name a return day, but shall be returnable forthwith after the execution thereof. 42 V. c. 4, s. 1.

PROCEEDINGS AT ELECTIONS.

ISSUE OF THE WRIT.

Writs to be addressed to Returning Officers.

27.—(1) Whenever a writ of election is issued for the election of a member to serve in the Legislative Assembly of this Province, the same shall be addressed and directed to the Sheriff or Registrar, who is *ex officio* the Returning Officer for the Elec-

toral District, or to the person appointed by the Lieutenant-Governor, if such appointment is made according to the requirements of this Act.

(2) The Lieutenant-Governor may cause the writs for the Electoral Districts of Algoma West, Algoma East, Muskoka and Parry Sound, respectively, to be directed to the Sheriff or Registrar of Algoma, Thunder Bay or Rainy River, or to the Registrar of Muskoka, or of Parry Sound, or to such other Returning Officer as he thinks fit. R. S. O. 1877, c. 10, s. 30; 48 V. c. 2, s. 12 (5). Writs for Districts of Algoma, Muskoka and Parry Sound.

PROCEEDINGS ON THE RECEIPT OF THE WRIT.

28. Each Returning Officer shall, on receiving the writ of election, forthwith endorse thereon the date of its receipt. Endorsement on writ.
R. S. O. 1877, c. 10, s. 31.

Proclamation of Nomination Day.

29.—(1) The Returning Officer shall, by a proclamation under his hand in the English language, in the words or to the effect of Form 1, in Schedule A, to this Act, declare the place, day and hour at which the election will be held, and shall cause the proclamation to be posted up in the manner hereinafter prescribed, with all reasonable speed after the receipt of the writ and at least eight days before the day fixed for holding the election, which day so fixed shall be called the Nomination Day. Proclamation. Posting up of proclamation.

(2) Neither the day of nomination nor that of the posting up of the proclamation, shall be included in the eight days. How the eight days' notice reckoned.
R. S. O. 1877, c. 10, s. 32.

30.—(1) The place at which the election will be held shall be fixed by the Returning Officer, and shall be in the public place most central and most convenient for the great body of the electors in the Electoral District for which he is acting as Returning Officer, and the hour to be fixed shall be between eleven o'clock in the forenoon and two o'clock in the afternoon of the day so fixed for opening the election. Place of election. Hour.
R. S. O. 1877, c. 10 s. 33.

(2) In case the Returning Officer, from unforeseen delay, accident or otherwise, does not open the election until after the hour named, the election shall not, on that account, be invalid if it appears to the tribunal having cognizance of the question that the delay did not affect the result of the election. 47 V. c. 4, s. 15. Unforeseen delay in opening elections.

31. In and by the proclamation aforesaid, the Returning Officer shall also declare the day on which, in case a poll be demanded and granted, as hereinafter provided, the poll shall be opened, in conformity with this Act, in each City, Township, Polling day.

or Union of Townships, or Ward, or part of Township or Ward (as the case may be), for taking and recording the votes of the electors according to law. R. S. O. 1877, c. 10, s. 34.

Place of posting up proclamation in cities, etc.

32. If the election is for a City or Town, the Returning Officer shall cause the proclamation to be posted up at the City or Town Hall, and in some public place in each Ward of the City or Town. R. S. O. 1877, c. 10, s. 35.

In County or Riding.

33.—(1) If the election is for a County or Riding, the Returning Officer shall cause the proclamation to be posted up at the Town Hall or other public place where the meetings of the Municipal Council of each Township are held, at every post office in the Electoral District, and at least at one public place in every polling subdivision. R. S. O. 1877, c. 10, s. 36.

Places of posting up proclamation in districts of Algoma, etc.

(2) It shall not be necessary in the Electoral Districts of Algoma West, Algoma East, Muskoka and Parry Sound, to post up the proclamation for holding the election at every post office in the said Electoral Districts, but the proclamation shall be posted in some public place in the neighbourhood of each place at which a poll is required to be held in case a poll is demanded. 42 V. c. 4, s. 6; 48 V. c. 2, s. 12 (5).

Penalty.

34. A Returning Officer refusing or neglecting to cause such proclamation to be posted up as above required, shall, for such neglect or refusal, incur a penalty of \$200. R. S. O. 1877, c. 10, s. 37.

Nomination and polling day in Algoma, Muskoka and Parry Sound at special elections.

35. In the Electoral Districts of Algoma West, Algoma East, Muskoka and Parry Sound, the Returning Officer, shall, at a special election, fix the day for the nomination of candidates for election as members of the Legislative Assembly; the nomination shall not take place less than fifteen nor more than thirty days after the proclamation was first posted up; and the day for holding the polls shall be the fourteenth day next after the day fixed for the nomination of candidates: that is to say, it shall be on the corresponding day of the week next but one after that on which the nomination has taken place; or if the fourteenth day be a statutory holiday, then on the following day, not being a statutory holiday. 42 V. c. 4, s. 4; 48 V. c. 2, s. 12 (5).

Nomination and polling day in Algoma, Muskoka and Parry Sound at a general election.

36. The Returning Officer of each of the Districts mentioned in the next preceding section shall, in case of a general election, name as the nomination day the fourteenth day next preceding the day appointed as the polling day throughout the Province, so that the polling in the said Districts may be held at the same time as the polling in the rest of the Province; save and except that in the Electoral District of Algoma West, and the Electoral District of Algoma East, the nomination or polling is to be held at some time between the twentieth day of May and the thirtieth day of November. 42 V. c. 4, s. 5; 48 V. c. 2, s. 12 (4).

37. In cases where from unforeseen delays, accident or otherwise, the proclamation for holding an election for a member of the Legislative Assembly for any Electoral District could not be posted up so as to leave the required delay between the posting up of the proclamation and the nomination day appointed by the Lieutenant-Governor, or by the Returning Officer, as the case may be, and in cases where from unforeseen delays, accidents, or otherwise, as aforesaid, the Returning Officer is unable to open the election within the prescribed hours on the day he fixed for that purpose, he may fix new days for the nomination of candidates and for the polling; and in such case the nomination shall be the nearest day practicable, not being a Sunday or statutory holiday, after allowing the number of days required by law between the posting up of the proclamation and the nomination day; and in every such case the Returning Officer shall, with his return, make to the Clerk of the Crown in Chancery a report of the cause which occasioned the postponement of the election. 42 V. c. 4, s. 8; 47 V. c. 4, s. 37.

Unforeseen delays provided for.

Polling Places.

38.—(1) The Returning Officer shall also, on receiving the writ of election, fix one polling place for each subdivision into which a city, town or other local municipality is subdivided, in the most central and convenient place for the electors of such subdivision: but the number of polling places now required by law in Cities and Towns shall in no case be diminished, and the polling places shall be at least one hundred yards distant from each other in Cities, Towns and Incorporated Villages, and at least one mile distant from each other in other local municipalities.

Polling places in each polling subdivision.

(2) A Returning Officer may in his discretion grant such additional polling places in any polling subdivision as the extent of the subdivision and the remoteness of any body of its voters from the polling place render necessary.

Additional polling places in discretion of Returning Officer.

(3) The building in which the poll is held shall not be a tavern or place of public entertainment; and there shall be free access to the poll for every elector.

Polling place not to be a tavern.

(4) In Cities, unless the Municipal Council provides suitable polling places at its own expense, the Returning Officers shall provide the same; and the expense thereof, not exceeding \$8 for each polling place, shall be paid by the Treasurer of the City, upon the order of the Returning Officer. R. S. O. 1877, c. 30, s. 39.

Providing polling places in cities.

39. Every polling place shall be furnished with compartments in which the voters can mark their votes screened from observation; and it shall be the duty of the Returning Officer and the Deputy Returning Officer respectively, to see that a

Compartment wherein voters may mark votes.

sufficient number of compartments is provided at each polling place. R. S. O. 1877, c. 10, s. 40.

Ballot Boxes.

- 40.**—(1) The Returning Officer shall also, on receiving the writ of election, procure or cause to be procured as many boxes (hereinafter called ballot boxes) as there are polling subdivisions within the Electoral District.
- How made.** (2) The ballot boxes shall be made of some durable material, shall be provided with a lock and key, and shall be so constructed that the ballot paper can be introduced therein, and cannot be withdrawn therefrom unless the box be unlocked.
- Penalty on failure to furnish boxes.** (3) If the Returning Officer fails to furnish ballot boxes in the manner herein provided, he shall incur a penalty of \$100 in respect of every ballot box which he has failed to furnish in the manner prescribed. R. S. O. 1877, c. 10, s. 41.

Oath of Returning Officer.

- Oath of Returning Officer.** **41.** Every Returning Officer shall, before the day fixed for opening the election, take and subscribe before a Justice of the Peace for the County or District in which he resides, the oath Form 2 in Schedule A to this Act; and the Justice of the Peace shall (under a penalty of \$40, in case of refusal) deliver to him under his hand and in the words or to the effect of Form 3 in Schedule A, a certificate of his having taken the oath, which, together with the certificate, shall be annexed to his return to the writ of election; and a Returning Officer who refuses or neglects either to take and subscribe the oath, or to annex it with the certificate to his return, shall, for such refusal or neglect, incur a penalty of \$40. R. S. O. 1877, c. 10, s. 42.
- Certificate thereof.**
- Penalty.**

Election Clerks.

- Returning Officer to appoint an Election Clerk.** **42.** Every Returning Officer shall, before the nomination day, appoint, by a commission under his hand, in the words or to the effect of Form 4 in Schedule A to this Act, a fit person to be his Election Clerk, and to assist him in the performance of his duties as Returning Officer. R. S. O. 1877, c. 10, s. 43.
- Election Clerk to be sworn.** **43.** The Election Clerk shall take and subscribe, either before a Justice of the Peace for the County or District in which he resides or before the Returning Officer, the oath Form 5 in Schedule A to this Act, and a certificate of his having taken the oath shall be delivered to him, by the person before whom he has been sworn, and under his hand, in the words or to the effect of Form 6 in said Schedule A. R. S. O. 1877, c. 10, s. 44.
- Certificate thereof.**

44. A person so appointed as Election Clerk, who refuses to accept the office, or who, having accepted it, refuses or neglects to take and subscribe the oath, or to perform the duties of Election Clerk, shall, for such refusal or neglect, incur a penalty of \$40. R. S. O. 1877, c. 10, s. 45.

Penalty for refusing to act.

45. The Returning Officer may, either before or after the nomination day, appoint, in the manner above mentioned, another person as his Election Clerk, whensoever the case requires, either by reason of the death, illness or absence of the Election Clerk previously appointed, or of his refusal or neglect to act, or otherwise; and the new Election Clerk so appointed shall perform all the duties and comply with all the obligations of his office, under the same penalty, in case of refusal or neglect on his part, as is hereinbefore imposed in like cases. R. S. O. 1877, c. 10, s. 46.

Provision in case of death, etc., of Election Clerk.

46. Whenever a Returning Officer becomes unable to perform the duties of his office, whether by death, illness, absence or otherwise, the Election Clerk so by him appointed as aforesaid, shall, under the same penalties in case of refusal or neglect on his part as are hereinbefore imposed in like cases on the Returning Officer, act as, and shall be Returning Officer for the election, and shall perform all the duties and obligations of that office, in like manner as if he had been duly appointed Returning Officer, and without being required to possess any other qualification, or to take any new oath for that purpose; and the Election Clerk shall annex to his return to the writ of election the certificate of the oath he has taken as Election Clerk, and also the oath itself. R. S. O. 1877, c. 10, s. 47.

Provision in case of death, etc., of Returning Officer.

Certificate to be annexed to return.

PROCEEDINGS ON THE NOMINATION DAY.

47. Every Returning Officer shall, at the time and place fixed as aforesaid for opening the election, proceed to the hustings (which shall be held at such a place that all the electors may have free access thereto), and shall make or cause to be made, in the English language, in the presence of the electors there assembled, a proclamation in the words or to the effect of Form 7 in Schedule A to this Act, and shall then and there read, or cause to be read publicly, in the English language, the writ of election, and his commission as Returning Officer when he has been appointed Returning Officer by special commission and shall then require the electors there present to name the person or persons whom they wish to choose at the election to represent them in the Legislative Assembly, in obedience to the writ of election. R. S. O. 1877, c. 10, s. 48.

Proceedings of the Returning Officer on the day of nomination.

48. No show of hands shall be taken on the nomination day, but if at the nomination more than one candidate is proposed and a poll is then and there demanded by or on behalf of

No show of hands to be taken; poll to be granted, if demanded.

one or more of the candidates, the Returning Officer shall grant a poll for taking and recording the votes of the electors. R. S. O. 1877, c. 10, s. 49.

Penalty for refusal to grant poll.

49. Any elector present, or any candidate in person, or by his agent, may demand a poll, and when at an election a poll is demanded, if the Returning Officer neglects or refuses to grant the same, the election shall be *ipso facto* null; and the Returning Officer shall, for his refusal or neglect, incur a penalty of \$1000. R. S. O. 1877, c. 10, s. 50.

If only one candidate proposed within one hour, he to be declared elected.

50. If only one candidate is nominated, or the electors there and then present agree in the choice so to be made of the person to represent them, the Returning Officer shall, at the expiration of one hour from the nomination of the candidate, and not before, close the election, and shall then and there openly proclaim the person so chosen to be duly elected. R. S. O. 1877, c. 10, s. 51.

Returning Officer to publish names and addresses of agents.

51. The Returning Officer shall announce from the hustings on the day of nomination, and at the expense of the candidate shall publish on or before the day of nomination, the name and address or the names and addresses of the agent or agents appointed in pursuance of section 189 of this Act; the publication shall be in some newspaper, if such there be, published or circulated within the Electoral District for which the election is to take place. R. S. O. 1877, c. 10, s. 52.

WITHDRAWAL OF CANDIDATES.

Withdrawal of candidate after nomination.

52. Any candidate nominated may withdraw at any time after his nomination and before the opening of the poll, by filing with the Returning Officer a declaration in writing to that effect, signed by himself, and any votes cast for the candidate who shall have so withdrawn shall be null and void; and in case after the withdrawal there should remain but one candidate, then it shall be the duty of the Returning Officer to return as duly elected the candidate so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll, if his withdrawal be filed on the polling day. R. S. O. 1877, c. 10, s. 53.

Death of candidate.

53. In case a candidate dies after being nominated and before the close of the poll, the Returning Officer may fix new days for the nomination of candidates, and for the election, and in such case the nomination day shall be the nearest day possible not being a Sunday or statutory holiday, after allowing the number of days required by law between the posting up of the proclamation and the nomination day; and in every such case the Returning Officer shall with his return make to the Clerk of the Crown in Chancery a report of the cause

which occasioned the postponement of the election. R. S. O. 1877, c. 10, s. 54.

PROCEEDINGS WHEN A POLL IS GRANTED.

54.—(1) When at an election a poll has been granted, the Returning Officer, immediately after having granted a poll, and before adjourning his proceedings, shall publicly proclaim from the hustings the day previously fixed in and by his first proclamation, and the places at which the poll shall be so opened in every polling subdivision or ward (as the case may be), for the purpose of then and there taking and recording the votes of the electors according to law, and the place where and the time when the Returning Officer shall sum up the number of votes given to the several candidates. R. S. O. 1877, c. 10, s. 55 (1); 47 V. c. 4, s. 16.

Day of opening poll and time and place of summing up votes to be proclaimed.

(2) The day to be fixed for opening the poll as aforesaid shall not be a Sunday, New Year's Day, Good Friday, Christmas Day, the first day of July, or the birthday of the Sovereign: and the poll shall be opened and held on that day only, so that there be but one and the same day's polling at any special or general election. R. S. O. 1877, c. 10, s. 55 (2).

Poll not to be held on Sundays or certain holidays.

55. Whenever polling subdivisions have been established by the Municipal Council, or have been provided for by the Returning Officer, a poll shall be opened and held in every subdivision, for taking the votes of the electors therein, and a copy of the first and third parts of the voters' list for the subdivision, according to the Form (S) given in Schedule A to this Act shall be furnished for every polling place appointed therefor. R. S. O. 1877, c. 10, s. 56.

Copy of voters' list to be furnished for each polling place.

56.—(1) In the Electoral Districts of Algoma West and Algoma East, a poll shall be opened and held at each of the places hereinafter mentioned, namely, in municipalities:—

Polling places in district of Algoma.

Hilton.	Sandfield Township.
Tenby Bay.	Richard's Landing.
Sault St. Marie.	Mountain School.
Manitowaning Village.	Korah.
Blue Jay River.	Sandfield Mills.
Mindemoya Lake.	Mudge Bay.
Little Current.	Shequeandah.
Providence Bay.	Michaels Bay.
Gore Bay.	Burpee.
Barrie Island.	Green Bay.
North Ward, Port Arthur.	South Ward, Port Arthur.
Fort William.	Murillo.
Oliver Township.	Rat Portage.
Cockburn Island.	Big Lake.

And in unorganized territory, at the following places:—

Killarney.	Serpent River.
Spanish River.	Bruce Mines.

Day Mills.
Desert Lake.
Kewatin Mills.
Rainy River.
Orchards, McDonald
Township.
Goulais Bay.
Coffin Additional.
Robinson.
Michipicoten River.
Nepigon.
Collins Inlet.

Algoma Mills.
Mississagua River.
Thessalon River.
Dunn's Valley.
Tarbott, near Port Finlay.
Fort Francis.
Vermillion Bay.
Garden River.
Mamainse Mines.
Michipicoten Island.
Silver Islet.
West Bay.

(2) The Lieutenant-Governor in Council may from time to time add other polling places to those named.

(3) The Returning Officer shall establish as many polling places at the places before mentioned as he may consider requisite, and may appoint other places in addition to those named in this section.

(4) There shall be at least one polling place in every municipality for which there is an assessment roll. 47 V. c. 4, s. 17; 48 V. c. 2, s. 12 (7).

Hours of
voting.

Ballot.

57.—(1) On the day of polling the voting shall commence at nine o'clock in the forenoon, and shall finish at five in the afternoon of the same day, and the votes shall be given by ballot. R. S. O. 1877, c. 10, s. 58.

(2) A voter entitled to vote within a City or Town shall, on the day of polling, for the purpose of voting, be entitled to absent himself from any service or employment in which he is then engaged or employed, from the hour of noon in the day-time until the hour of two of the clock next thereafter, and a voter shall not, because of his so absentsing himself, be liable to any penalty, or suffer or incur any reduction from the wages or compensation to which but for his absence he would have been entitled: provided, that if so required by the person in whose service or employment the voter is so engaged or employed, the voter so absentsing himself shall, at some other time during the same or the following week employ himself in and about such service or employment for one hour more than the hours of the usual and ordinary day's work or service otherwise required to be performed by him: provided, moreover, that this sub-section shall not apply where a voter is by his employer or master permitted or allowed at any other period during the hours of polling, reasonable and sufficient time and opportunity to vote. 49 V. c. 3, s. 3.

PROCEEDINGS PRELIMINARY TO THE POLL.

Deputy Returning Officers.

Appointment
of Deputy
Returning
Officers.

58. For the purpose of taking the votes at an election, the Returning Officer shall, by a commission under his hand, in the words or to the effect of Form 9 in Schedule A to this Act,

appoint some suitable person to be Deputy Returning Officer for every polling subdivision in which a polling place is to be opened and kept, and shall thereby require the Deputy Returning Officer to open and hold the poll according to law, at the time and place fixed as hereinbefore provided, and at the poll to take and record in the voters' list the particulars relating to electors voting at the polling place, which by this Act he is directed to take and record. R. S. O. 1877, c. 10, s. 59.

59. Every Deputy Returning Officer shall, before acting as such, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, the oath Form 10 in Schedule A to this Act, of the taking of which oath there shall be delivered to him by the person before whom he has taken it, a certificate under the hand of such person according to the Form 11 given in Schedule A. R. S. O. 1877, c. 10, s. 60.

Oath of office, etc.

60. A person so appointed a Deputy Returning Officer who refuses to accept the office, or who, after having accepted the same, refuses or neglects either to take and subscribe the oath or to perform the duties of a Deputy Returning Officer, shall, for his neglect or refusal, incur a penalty of \$100. R. S. O. 1877, c. 10, s. 61.

Penalty for refusing to perform duties of office.

61. In townships divided into polling subdivisions under this Act, the Township Clerk shall be appointed by the Returning Officer to be Deputy Returning Officer for the subdivision in which the Town Hall is situate, if there be a Town Hall in the Township, but if there be no Town Hall, then for the subdivision in which the first meeting of the Council of the Municipality for that year was held; and in case of the absence, sickness or death of the Township Clerk, the Township Assessor or Collector shall be appointed Deputy Returning Officer. R. S. O. 1877, c. 10, s. 62.

Township Clerk to be a Deputy Returning Officer.

62. The Returning Officer may appoint, in the manner above provided, another person to be Deputy Returning Officer, when and so often as the case may require the appointment, either by reason of the death, illness or absence of a Deputy Returning Officer previously appointed, or by reason of his refusal or neglect to act in that capacity, or otherwise: and the new Deputy Returning Officer so appointed shall perform all the duties and obligations of the office, under the same penalties, in case of refusal or neglect on his part, as are hereinbefore imposed in like cases. R. S. O. 1877, c. 10, s. 63.

Provision in case of death, etc., of Deputy Returning Officer.

Ballot Papers.

63.—(1) Where a poll has been granted, the Returning Officer shall forthwith cause to be printed such a number of ballot papers as will be sufficient for the purposes of the elec-

Ballot papers to be printed.

tion; and the number necessary for each polling subdivision shall be bound or stitched in a book of convenient size, and in such manner that the counterfoils shall continue bound or stitched when the ballot papers are detached therefrom.

Contents and form.

(2) Every ballot paper shall contain the names of the candidates, arranged alphabetically in the order of their surnames, or if there be two or more candidates with the same surname, of their other names, and the ballot papers may be according to the Form 12 given in Schedule A to this Act.

Number and names of candidates to be printed in different colours.

(3) The number and names of every candidate shall, if practicable, be distinctly printed in ink of different colours, if on the nomination day the candidates agree as to the colours; and the Returning Officer shall give to every candidate a certificate setting forth the selection of the colour made by him.

Counterfoil.

(4) Every ballot paper shall have a counterfoil attached thereto; every ballot paper and counterfoil shall specify the name of the Electoral District for which it is to be used and every ballot paper shall have a number printed on the back thereof, and the same number shall be printed on the face of the counterfoil attached thereto, but the same number shall not be printed on more than one ballot paper to be used for the Electoral District. R. S. O. 1877, c. 10, s. 64.

Tendered ballot papers.

64.—(1) In addition to the ballot papers hereinbefore referred to, the Returning Officer shall cause to be printed such a number of other ballot papers (hereinafter called “tendered ballot papers,”) to be used in the manner hereinafter directed, as will be sufficient for the purposes of the election.

Contents and form.

(2) The tendered ballot papers shall be in the same form as the ballot papers hereinbefore referred to, but shall be of a colour differing from the same; and upon the back of the tendered ballot papers, and upon the face of the counterfoils attached thereto, shall be printed the words “Tendered Ballot Paper.”

To be numbered, etc.

(3) The tendered ballot papers and the counterfoils attached thereto shall be numbered in a manner similar to that in which the other ballot papers and counterfoils are hereinbefore directed to be numbered, and shall be bound or stitched in like manner. R. S. O. 1877, c. 10, s. 65.

Returning Officer to furnish Deputies with ballot books, etc.

65. The Returning Officer shall, before the opening of the poll, deliver or cause to be delivered to every Deputy Returning Officer, the books containing the ballot papers and tendered ballot papers, with their respective counterfoils attached, which have been prepared for use in the polling subdivision for which the Deputy Returning Officer is appointed to act: and shall also furnish to the Deputy Returning Officer, or see that he is furnished with the necessary materials for voters to mark the ballot papers, and such materials shall be kept at the polling place by the Deputy Returning Officer, for the convenient use of voters. R. S. O. 1877, c. 10, s. 66.

Ballot Boxes.

66. When it becomes necessary, for the purposes of an election, to use the ballot boxes, it shall be the duty of the Returning Officer, two days, at least, before the polling day, to deliver one of the ballot boxes to every Deputy Returning Officer appointed for the purposes of the election. R. S. O. 1877, c. 10, s. 67.

Delivery of ballot boxes to Deputy Returning Officers.

67. It shall be the duty of the Deputy Returning Officer, in every polling subdivision not supplied with a ballot box within the time prescribed, forthwith to procure one to be made. R. S. O. 1877, c. 10, s. 68.

Deputy Returning Officer to procure ballot boxes.

Directions to Voters.

68. The Returning Officer shall, before the opening of the poll, deliver or cause to be delivered to every Deputy Returning Officer such a number of printed directions for the guidance of voters in voting, as he may deem sufficient, and shall so deliver or cause to be delivered, at least ten copies of the printed directions; such directions shall be printed in conspicuous characters, and may be according to Form 13 in Schedule A to this Act. R. S. O. 1877, c. 10, s. 69.

Returning Officer to furnish Deputies with directions for voters' guidance.

69. Every Deputy Returning Officer shall, before the opening of the poll, or immediately after he has received such printed directions from the Returning Officer, if he did not receive the same before the opening of the poll, cause the printed directions to be placarded outside the polling place for which he is appointed to act, and also in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. R. S. O. 1877, c. 10, s. 70.

Deputies to placard the directions.

Certificates as to Assessment Roll.

70.—(1) The Returning Officer shall, before the opening of the poll, obtain from the Clerk of the Municipality, and deliver, or cause to be delivered to every Deputy Returning Officer, a certificate in the words or to the effect of Form 14 in Schedule A to this Act, of the day when the assessment roll, upon which the voters' list to be used at the election is based, was returned by the Assessor, and also of the day upon which the same was finally revised and corrected.

Returning Officer to furnish Deputy Returning Officer with certificate of certain dates.

(2) The Clerk shall give the certificates upon being required so to do by the Returning Officer or any other person who applies for the same, and shall be subject to a penalty of \$200 in case of neglect or refusal.

Clerk to give certificate.

(3) For every such certificate the Clerk shall be entitled to receive the sum of twenty-five cents.

Certificate to be evidence of dates.

(4) The certificate when delivered to the Deputy Returning Officer shall be the evidence upon which he shall act in inserting in the oath to be administered to voters the date of the return, or final revision, of the assessment roll, as the case may be. R. S. O. 1877, c. 10, s. 71.

* Lists of Voters.

What voters' list to be used.

71. Subject to the provisions in the next succeeding six sections contained, the first and third parts of the last list of voters certified by the Judge, and delivered or transmitted to the Clerk of the Peace, under *The Voters' Lists Act*, before the date of the writ of election, shall be the proper list to be used at an election to the Legislative Assembly. R. S. O. 1877, c. 10, s. 72; 42 V. c. 4, s. 15.

Rev. Stat. c. 8.

Only the persons named in the proper lists to vote.

72. Subject to the provisions of section 103 of this Act, no person shall be admitted to vote unless his name appears on the list; and no question of qualification shall be raised at an election, except to ascertain whether the person tendering his vote is the same person intended to be designated in the list; and other questions of qualification shall be raised and decided on election petition only. R. S. O. 1877, c. 10, s. 73.

The case of time for appealing from by-law making polling subdivisions having expired, and no voters' lists filed.

73. In case a Municipal Council has by by-law divided the Municipality into polling subdivisions, and the time for appealing from the by-law has expired, and no lists of voters for the subdivisions have been filed with the Clerk of the Peace, as required by *The Voters' Lists Act*, but a list of the voters of the Municipality or of the several wards therein has been duly certified by the Judge, the said list shall be the proper list of voters for the election; and the Returning Officer shall cause the names on the voters' list to be divided into separate lists for the Deputy Returning Officers, in accordance with the polling subdivisions provided for by the by-law. R. S. O. 1877, c. 10, s. 74.

The case of new territory, added to city town or village and no voters' lists including such new territory.

74. Where any territory is added for municipal purposes to a City, Town or Village belonging to, or constituting an Electoral District other than that to which such territory previously belonged, or when a Town with additional territory is erected into a City, or a Village with additional territory is erected into a Town, or in case a Village is formed including territory which belonged to an Electoral District other than that to which the Village belongs, and an election takes place previous to the voters' lists including the names of persons entitled to vote in such territory, being made out for the City, Town or Village, or before the lists are certified by the County Judge, then all persons who would have been qualified as electors if such territory remained separate from the City, Town or Village, and if the election had been for the Electoral District to which such territory formerly belonged, shall be entitled to vote in the City, Town or Village. R. S. O. 1877, c. 10, s. 75.

75. In all such cases the Returning Officer shall extract from the proper voters' lists of the Municipality or Municipalities to which such territory formerly belonged, containing the names of voters entitled to vote in respect of such territory, the names of the several voters in the lists entitled to vote in such territory, and shall place the names in supplementary lists to be signed by the Returning Officer, and to be delivered by him to the proper Deputy Returning Officers, for the purpose of enabling the persons named in such lists to vote at the election. R. S. O. 1877, c. 10, s. 76.

Duty of Returning Officer in cases of added territory as to voters' lists.

76. Where a voters' list embraces territory comprising portions of two or more Electoral Districts every Returning Officer shall in like manner prepare and deliver to the proper Deputy Returning Officers supplementary lists of voters for that portion of the territory which lies within the Electoral District for which he is Returning Officer. R. S. O. 1877, c. 10, s. 77.

Duty where voters' list embraces portions of Electoral Districts.

77.—(1) In any Municipality in the Electoral Districts of Algoma East, Algoma West, East Victoria, East Peterborough, North Hastings, North Renfrew, South Renfrew, Muskoka and Parry Sound, where there is an assessment roll, but for which no voters' lists containing the names of the voters in the municipality have been filed with the Clerk of the Peace, or certified by the County Judge, the Returning Officer shall, upon receipt of the writ, procure from the Clerk of the Municipality an alphabetical list or lists of all persons entitled to vote in the Municipality or in the polling subdivisions thereof (if the Municipality is divided into polling subdivisions); and the clerk shall forthwith, upon being requested so to do, furnish the Returning Officer with the list or lists, having first certified to the correctness thereof before a Justice of the Peace. 47 V. c. 4, s. 22 (1); 48 V. c. 2, s. 12 (6).

Municipalities in Algoma, etc., where there is an assessment roll but no voters' list filed or certified.

(2) Every list of voters so prepared (or a similar list otherwise procured by the Returning Officer, at the expense of the clerk, in case of the failure of the clerk to furnish the same within a reasonable time), shall be the voters' list to be used at the election for the Municipality or polling subdivision.

(3) In every Municipality in the districts in which there is an assessment roll, it shall be necessary that the name of the elector shall appear upon the list of voters prepared under this section, or under *The Voters' Lists Act*; and in such case the same provisions as to qualification of voters and other matters shall apply as in other electoral districts, and the oath or affirmation to be required of voters shall be the same, save as mentioned in the next sub-section.

(4) No person shall be entitled to vote in any such municipality as an owner in respect of ungranted land, that is of land not theretofore granted by the Crown; but in case a person who is a resident householder within the meaning of this Act is

entered in the assessment roll or voters' list as an owner or a freeholder, he may, notwithstanding, vote as a resident householder, provided that, if required by a candidate, or the agent of a candidate, or by the Deputy Returning Officer, the person takes the oath or affirmation set forth in Form 22 in Schedule A to this Act. 47 V. c. 4, s. 22 (2-4).

Returning Officer to deliver to his Deputies certified copies of voters' lists.

78.—(1) Every Returning Officer, upon granting a poll at an election, shall procure from the Clerk of the Peace a copy, according to Form 8 in Schedule A to this Act, and certified by the Clerk of the Peace to be correct, of the proper list of voters, filed in his office, for every polling subdivision, and shall cause the same to be delivered to the Deputy-Returning Officer appointed to preside at the polling place in the polling subdivision. R. S. O. 1877, c. 10, s. 79.

Clerk to give copies of list to Returning Officer.

(2) The Clerk of the Peace or the Clerk of the Municipality who has the custody of a Voters' List, shall furnish copies thereof to the Returning Officer in four days after a written application therefor has been delivered to him personally or left for him at his proper office. 41 V. c. 21, s. 12.

Deputies to prefix numbers to names on voters' lists.

79. The Deputy Returning Officer shall, upon receiving the copy of the voters' list for the polling subdivision for which he is to act, prefix a number to every name in the copy, and the numbers so prefixed need not be consecutive numbers, but may be chosen arbitrarily by the Deputy Returning Officer: but the same number shall not be prefixed to more than one name; and the Deputy Returning Officer shall take all necessary precautions for concealing and shall conceal from all persons (except the Poll Clerk) the numbers so prefixed by him to the names on the copy of the voters' list. R. S. O. 1877, c. 10, s. 80.

Poll Clerks.

Appointment of Poll Clerks.

80.—(1) Every Deputy Returning Officer shall, by a commission under his hand and according to Form 15 in Schedule A to this Act, appoint a Poll Clerk to assist him in taking the poll according to law; and every Poll Clerk appointed as aforesaid shall, before acting, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, or Deputy Returning Officer, the oath Form 16 in Schedule A to this Act, of the taking of which oath there shall be delivered to him, by the person before whom it has been taken, a certificate under his hand, according to Form 17 in Schedule A to this Act.

Penalty.

(2) Every person so appointed a Poll Clerk who refuses to accept the office, or who, after having accepted the same, refuses or neglects either to take and subscribe the oath hereby required of him, or to perform the duties of a Poll Clerk, shall, for such neglect or refusal, incur a penalty of \$40. R. S. O. 1877, c. 10, s. 81.

81. Every Poll Clerk shall, at the polling place for which he is appointed, aid and assist in the performance of the duties of his office the Deputy Returning Officer appointed to open and keep the poll in conformity with this Act, and shall obey the orders of the Deputy Returning Officer. R. S. O. 1877, c. 10, s. 82.

Poll Clerk to aid Deputy Returning Officer.

82. If the Deputy Returning Officer refuses or neglects to perform the duties of his office, or becomes unable to perform them, either by death, illness, absence or otherwise, and if no other Deputy Returning Officer duly appointed by the Returning Officer in the place of the former, appears at the polling place, then the Poll Clerk shall, under the same penalties as are hereinbefore imposed in like cases on a Deputy Returning Officer, act at the poll as Deputy Returning Officer, and perform all the duties and obligations of that office, in the same manner as if he had been appointed Deputy Returning Officer by the Returning Officer, and without being bound to take a new oath for that purpose. R. S. O. 1877, c. 10, s. 83.

To act for Deputy Returning Officer in certain cases.

83. Where any Poll Clerk, in the case hereinbefore provided, acts as Deputy Returning Officer, he may appoint by a commission under his hand, according to Form 15 in Schedule A to this Act, another person as Poll Clerk, to aid and assist him as aforesaid in the performance of the duties of his office, and may administer to him the oath required of a Poll Clerk by this Act; and the Poll Clerk so appointed shall have the same duties and obligations as if he had been appointed Poll Clerk by the Deputy Returning Officer himself. R. S. O. 1877, c. 10, s. 84.

In which case he may appoint another Poll Clerk.

84. Where a Poll Clerk, appointed under the requirements of this Act, refuses or neglects to perform his duty, or becomes unable to perform it, either by death, illness, absence or other cause, the Deputy Returning Officer, whose Poll Clerk he was, may appoint by a commission under his hand, according to Form 15 in Schedule A, another person as Poll Clerk at the polling place, to aid and assist him as aforesaid in the duties of his office, and may administer to him the oath required of a Poll Clerk by this Act. R. S. O. 1877, c. 10, s. 85.

Deputy Returning Officer may appoint another Poll Clerk in certain cases.

WHERE VOTERS TO VOTE.

85. In case the name of a person entitled to vote is entered on the list of voters for more than one polling subdivision in an Electoral District, such person may vote at the polling place for any one of the subdivisions in his discretion, but no person shall vote or offer to vote at more than one polling place in an Electoral District, at an election, under a penalty of \$200. R. S. O. 1877, c. 10, s. 86.

Penalty for voting at more than one polling place.

Where voters are to vote in townships not having any voters' list.

86.—(1) Where, in a surveyed township, there is no voters' list but there is a polling place, every voter in respect of property in the township shall vote at the polling place or one of the polling places in the township, and not elsewhere.

(2) Where, in a surveyed township, there is no voters' list and no polling place, every voter in respect of property in the township shall vote at the polling place nearest to the property in respect of which he votes, and not elsewhere.

(3) In the case of territory not surveyed into townships, every voter in respect of property in the unsurveyed territory shall vote at the polling place nearest to the property in respect of which he votes, and not elsewhere.

(4) In the cases provided for in the last two sub-sections, if it is doubtful which of two polling places is the nearer to the voters' property he may vote at either of the polling places.

(5) In case through accident or mistake a vote was not given at the nearest polling place, the same shall not on that account be void. 47 V. c. 4, s. 18.

Deputy Returning Officers and agents may vote at polling places where they are employed,

87.—(1) The Returning Officer, on the request of any elector entitled to vote who has been appointed Deputy Returning Officer or Poll Clerk, or who has been named the agent of any of the candidates at a polling place other than the one where he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the election at the polling place where he is stationed during the polling day; and the certificate shall also state the property or other qualification in respect of which he is entitled to vote.

on production of certificate of Returning Officer.

(2) On the production of the certificate the elector shall have the right to vote at the polling place where he is stationed during the polling day, instead of at the polling place of the polling subdivision where he would otherwise have been entitled to vote; and the Deputy Returning Officer shall attach the certificate to the voters' list; but no such certificate shall entitle an elector to vote at such polling place unless he has been actually engaged as Deputy Returning Officer, Poll Clerk, or agent during the day of polling, or shall entitle an agent to vote who is disqualified under section 5 of this Act. R. S. O. 1877, c. 10, s. 87.

Application of sub-sects. 1 & 2 limited.

(3) The preceding two sub-sections shall not apply to a municipality or territory for which there are no voters' lists or supplementary voters' lists, and no such certificate shall be issued to a person in respect of a claim to be a voter in any such municipality or territory.

Certificates to agents of candidates.

(4) No Returning Officer shall, under a penalty of \$400, give to more than two agents of the same candidate at one polling place, a certificate under this section; and every such certificate shall name the polling place at which the agent is to be permitted to vote and the candidate for whom

he is agent; nor shall a Returning Officer issue a certificate under this section except upon the personal or written request of the elector; and no such certificate shall be signed by the Returning Officer until the name and qualification of the person to whom it is to be granted have been inserted therein.

(5) No person who receives a certificate under this section whether as Deputy Returning Officer, Poll Clerk or agent, shall thereafter either at the polling place named in the certificate, or at any other polling place, vote at the election, until he has taken at the polling place where he proposes to vote, one or other of the oaths of qualification prescribed to be taken by voters, and any person violating the provisions of this sub-section shall be subject to a penalty of \$400; and every vote cast in contravention of this sub-section shall be null and void.

(6) The oath of the Deputy Returning Officer shall be taken before the Poll Clerk, and the oath of a Poll Clerk or agent shall be taken before the Deputy Returning Officer, as in the case of other voters.

(7) Every Returning Officer shall, before delivering the certificate, enter in a list (to be kept by him for a year after the election), the name and qualification of every person to whom he gives a certificate under this section, the polling place at which such person is, under the certificate, authorized to vote, and stating whether the certificate is granted to him as Deputy Returning Officer, Poll Clerk or agent; and if as agent, the name of the candidate for whom he is agent; the Returning Officer shall also in the list enter the name of every person applying for a certificate to whom it is refused, with the ground of refusal, and if the last mentioned person claimed to be the agent of a candidate, the name of the candidate.

(8) The Deputy Returning Officer shall enter, or cause to be entered, upon a list to be headed, "Outside Voters' List," the name, place of residence and occupation of every person (including himself if he so votes) voting under the authority of a certificate given under this section; and also, a short description of the property or other qualification in respect of which such person claims to vote. The Deputy Returning Officer shall also shew upon the list what form of oath was administered to such person in the following manner, namely, by entering in the said list opposite the name of such person, "Sworn, Form 18," or otherwise as the case may require.

(9) Every person proposing to vote by virtue of a certificate aforesaid, shall with his ballot paper deliver up to the Deputy Returning Officer the certificate, and the Deputy Returning Officer shall, at the close of the poll, enclose all the certificates received by him, and also the "Outside Voters' List," in package (h) mentioned in section 110 of this Act. 46 V. c. 2, s. 4.

Person receiving a certificate to take oath of qualification before voting.

Before whom oath to be taken.

Returning Officer to make a list of persons obtaining certificates.

Entry on list of persons voting under authority of a certificate.

Certificate to be delivered to Deputy Returning Officer by person voting.

Administra-
tion of oath to
D. R. O. voting
at his polling
place.

88. In case of a Deputy Returning Officer voting at the polling place where he has been appointed to be Deputy Returning Officer, the Poll Clerk appointed to act at the polling place, or in the absence of the Poll Clerk any agent of a candidate authorized to be present, may administer to the Deputy Returning Officer the oath required by law to be taken by voters. R. S. O. 1877, c. 10, s. 88.

THE POLL.

Deputy to
shew box
empty, lock
and seal it.

89. The Deputy Returning Officer shall, immediately before the commencement of the poll, shew the ballot box to such persons as are present in the polling place, so that they may see that it is empty; and he shall then lock the box, and place his seal upon it in such manner as to prevent its being opened without breaking the seal; and he shall then place the box in his view for the receipt of ballot papers, and shall keep it so locked and sealed. R. S. O. 1877, c. 10, s. 89.

Conduct of
Deputy on
tender of vote.

90. When a person claiming to be entitled to vote presents himself for the purpose of voting, the Deputy Returning Officer shall proceed as follows:—

Name.

1. He shall ascertain that the name of such person is entered, or purports to be entered, upon the voters' list for the polling subdivision for which the Deputy Returning Officer is appointed to act.

Recording.

2. He shall record or cause to be recorded in the proper columns of the voters' list, the residence and the legal addition of such person.

Oath.

3. If such person takes the oath or affirmation required to be taken by voters in the manner directed by this Act, the Deputy Returning Officer shall enter, or cause to be entered, opposite such person's name, in the proper column of the voters' list, the word "*Sworn*," or "*Affirmed*," according to the fact.

Objection.

4. Where the vote is objected to by a candidate or his agent, the Deputy Returning Officer shall enter the objection, or cause the same to be entered, in the voters' list, by writing opposite the name of such person, in the proper column, the words "*Objected to*," stating at the same time by which candidate or on behalf of which candidate the objection has been made, by adding after the words "*Objected to*," the name only of such candidate.

Refusal to
take the oath.

5. Where such person as aforesaid has been required to take the oath or affirmation, and refuses to take the same, the Deputy Returning Officer shall enter or cause to be entered opposite the name of such person, in the proper column of the voters' list, the words "*Refused to be sworn*," or "*Refused to affirm*," according to the fact.

6. No person who has refused to take the oath or affirmation of qualification required by law, when requested so to do, shall receive a ballot paper or be admitted to vote; and the vote of such person if taken and received shall be null and void; and the Deputy Returning Officer, for having taken and received such vote or caused the same to be taken and received, shall incur a penalty of \$200. R. S. O. 1877, c. 10, s. 90 (1-6). Voter refusing to be sworn.

7. Where the proper entries respecting the person so claiming to vote have been made in the voters' list in the manner prescribed, the Deputy Returning Officer shall stamp or sign his name or initials upon the back of the ballot paper and upon the counterfoil; and he shall not put upon the said ballot paper any figure or mark, other than his name or initials. 42 V. c. 4, s. 16. Deputy to sign his name on ballot paper and counter-foil.

8. The ballot paper shall be detached from the counterfoil and delivered to such person. Delivery of paper to voter.

9. The counterfoil shall be retained in the book by the Deputy Returning Officer, who shall write or otherwise mark upon the counterfoil the number prefixed to the name of such person upon the voters' list; and opposite the name of such person in the voters' list a mark shall be placed to denote that he has received a ballot paper, but not shewing the particular ballot paper which he has received. R. S. O. 1877, c. 10, s. 90 (8, 9). Counterfoil, to be retained.

91.—(1) The Deputy Returning Officer shall receive the vote of every person whose name he finds in the proper list of voters furnished to him, provided that such person, if required by a candidate, or the agent of a candidate, or by the Deputy Returning Officer himself, takes the oath or affirmation hereinafter mentioned, which the Deputy Returning Officer is hereby empowered to administer. R. S. O. 1877, c. 10, s. 91 (1). Persons on voters' list to be allowed to vote, on taking oath if required.

(2) Every person whose name is entered upon the list of voters as owner, tenant or occupant of real estate, or as a landholder's son, or as a householder, and who is required to take such oath or affirmation as aforesaid, shall be at liberty to select for himself for that purpose either of the forms numbered 18 and 20 in Schedule A, whatever may be the description either in the voters' list or assessment roll as to the qualification or character in respect of which he is entered upon the list or roll; and where the person claims to be entitled to vote in respect of taxable income or as a wage-earner, the oath or affirmation to be taken shall be according to Form 19 in said Schedule A, and where the person claims to be entitled to vote in respect of a supplementary voters' list in any of the cases mentioned in sections 74 and 76 of this Act, the oath or affirmation to be taken shall be according to Form 21 in said Schedule A. 48 V. c. 2, s. 5. Voter may select form of oath in certain cases.

(3) No other oath or affirmation shall be required of a person whose name is entered on any such list of voters as aforesaid. R. S. O. 1877, c. 10, s. 91 (3).

Declaration to be made by electors in municipalities in Algoma and other electoral districts where there is no assessment roll.

Deputy Returning Officer to enter particulars of declaration.

Oath.

Ballot paper not to be delivered until particulars declared and entered.

When Deputy Returning Officer to refuse vote.

Deputy Returning Officer must swear voters in certain cases.

Penalty.

92.—(1) In such of the municipalities, townships, and places in the electoral districts of Algoma East, Algoma West, East Victoria, East Peterborough, North Hastings, North Renfrew, South Renfrew, Muskoka and Parry Sound as have no assessment rolls, the person claiming to be entitled to vote shall declare his name, place of residence and occupation or calling, and also the property in respect of which he claims to be entitled to vote; and whether he so claims as owner of such property, or as a householder; and the Deputy Returning Officer shall cause the said particulars to be entered upon a list in the same manner as is prescribed in section 103 of this Act, with reference to the tendered voters' list; and the list shall be dealt with in the same manner as the tendered voters' list is directed to be dealt with by sections 110 and 111 of this Act. 47 V. c. 4, s. 23 (2); 48 V. c. 2, s. 12 (6).

(2) In any such place, every person who offers to vote at a polling place shall, if required by a candidate, or the agent of a candidate, or by the Deputy Returning Officer, take in lieu of the oath prescribed by section 91 of this Act, an oath or affirmation according to one of the Forms 23 or 24 in Schedule A to this Act; and the Deputy Returning Officer is hereby empowered to administer the oath.

(3) The Deputy Returning Officer shall not deliver a ballot paper to a person claiming to vote, until after such person has declared the several particulars above mentioned, nor until after these have been entered in the list, nor until after the prescribed oath has been taken if required. 47 V. c. 4, s. 23 (3, 4).

93.—(1) Where there is no voters' list, the Deputy Returning Officer shall not receive or enter the vote of any person who, to the knowledge of the Deputy Returning Officer, is not entitled to vote.

(2) Any person whose vote is rejected and who takes the prescribed oaths shall be entitled to mark a tendered ballot paper; and the same shall be dealt with as provided for tendered ballot papers in other cases under section 103 of this Act. 47 V. c. 4, s. 19.

94. Whenever a Deputy Returning Officer has reason to know or believe that fraud or violence is being practised in violation of the rights of electors, by which undue votes are tendered, or that a voter is not qualified, or has already voted at the election and offers to vote again, or tenders his vote under a false name or designation, or personates or represents himself falsely as being on the list of voters; the Deputy Returning Officer, under a penalty of \$200, shall administer the oath authorized by law to the voter, whether he be required to do so or not by any party; and mention thereof shall be made in the voters' list. R. S. O. 1877, c. 10, s. 93.

95. The Deputy Returning Officer shall take all necessary precautions for concealing, and shall conceal, as far as possible, from all persons present (including the Poll Clerk and the agents of the candidates, as well as all other persons), the number printed upon the ballot paper delivered to any person, and upon the counterfoil which was attached thereto, and shall not permit the counterfoil to be inspected by any person. R. S. O. 1877, c. 10, s. 94.

96. The Deputy Returning Officer may, and upon request shall, either personally or through his Clerk, explain to the voter, as concisely as possible, the mode of voting, and the colours in which the numbers and names of candidates are printed on the ballot paper. R. S. O. 1877, c. 10, s. 95.

97. Whenever an elector does not understand the English language, the Deputy Returning Officer may employ an interpreter to translate the oath or affirmation required of the elector, as well as any lawful questions necessarily put to him, and his answers; and the interpreter shall take before the Deputy Returning Officer the oath (or, if he be one of the persons permitted by law to affirm in civil cases, the affirmation) following:

“I swear (or affirm) that I will faithfully translate such oaths, declarations, questions and answers as the Deputy Returning Officer shall require me to translate at this election: So help me God.”

R. S. O. 1877, c. 10, s. 96.

98. Upon receiving from the Deputy Returning Officer the ballot paper so prepared as aforesaid, the person receiving the same shall forthwith proceed into one of the compartments provided for the purpose, and shall then and therein mark his ballot paper in the manner mentioned in the directions contained in Form 13 in Schedule A to this Act, by placing a cross, thus ×, on the right hand side, opposite the name of the candidate for whom he desires to vote, or at any other place within the division which contains the name of such candidate; and he shall then fold the ballot paper across so as to conceal the names of the candidates, and the mark upon the face of such paper, and so as to expose the initials of the Deputy Returning Officer, and the number on the back, and leaving the compartment, shall, without delay, and without shewing the front to any one, or so displaying the ballot paper as to make known to any person the name of the candidate for or against whom he has marked his vote, deliver the ballot paper so folded to the Deputy Returning Officer, who shall, without unfolding the same, or in any way disclosing the names of the candidates, or the mark made by the elector, verify his own initials, and the number on the back of the paper, and at once deposit the same in the ballot box in the presence of all persons entitled to be present, and then present in the polling place; and the voter shall forthwith leave the polling place. R. S. O. 1877, c. 10, s. 97; 42 V. c. 4, s. 13.

Exclusion
from balloting
compartment.

99. While a voter is in a balloting compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment, or to be in any position from which he can observe the mode in which the voter marks his ballot paper. R. S. O. 1877, c. 10, s. 98.

Voter not to
take his paper
from polling
place.

100. No person who has received a ballot paper or tendered ballot paper from the Deputy Returning Officer shall take the same out of the polling place; and a person having so received a ballot paper or tendered ballot paper, who leaves the polling place without first delivering the same to the Deputy Returning Officer in the manner prescribed, shall thereby forfeit his right to vote, and the Deputy Returning Officer shall make an entry in the voters' list, in the column for remarks, to the effect that such person received a ballot paper, but took the same out of the polling place, or returned the same declining to vote, as the case may be, and in the latter case the Deputy Returning Officer shall immediately write the word "*Declined*" upon the ballot paper, and shall preserve it to be returned to the Returning Officer. R. S. O. 1877, c. 10, s. 99.

Proceedings in
case of incapacity to mark
paper.

101. In case of an application by a person claiming to be entitled to vote, who is incapacitated by blindness or other physical cause from marking his ballot paper, or in case of a person claiming to be entitled to vote who makes a declaration that he is unable to read, the proceedings shall be as follows:—

1. The Deputy Returning Officer shall, in the presence of the agents of the candidates, cause the vote of such person to be marked on a ballot paper in manner directed by such person, and shall cause the ballot paper to be placed in the ballot box.

2. The Deputy Returning Officer shall state or cause to be stated in the voters' list, by an entry opposite the name of such person in the proper column of the voters' list, that the vote of such person is marked in pursuance of this section, and the reason why it is so marked.

3. The declaration of inability to read may be according to Form 26 in Schedule A to this Act, and shall be made by the person claiming to be entitled to vote, at the time of the polling, before the Deputy Returning Officer, who shall attest the same as nearly as may be according to Form 27 in Schedule A to this Act, and the said declaration shall be given to the Deputy Returning Officer at the time of voting. R. S. O. 1877, c. 10, s. 100.

Proceedings in
case an elec-
tor applies for
a paper after
another has
voted as such
elector.

102. If a person representing himself to be a particular elector named on the voters' list applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly taking the oath authorized by law to be administered to voters at the time of polling, be entitled to mark a tendered ballot paper, but the tendered ballot paper shall be given to the Deputy Returning Officer, and shall be placed by

him in an envelope, which shall be securely sealed, and upon the envelope he shall make an endorsement indicating the election at which, and the polling subdivision in which the same is used, and the Deputy Returning Officer shall then deposit the envelope in the ballot box; and the tendered ballot paper shall not be counted by the Deputy Returning Officer; and the name and number on the voters' list of such person shall be endorsed upon the counterfoil by the Deputy Returning Officer; and the Deputy Returning Officer shall, upon a list to be called the "Tendered Votes List," enter the name and number on the voters' list of such person, or cause the same to be so entered. R. S. O. 1877, c. 10, s. 101.

103. If a person whose name is not entered on the voters' list claims that his name ought to have been so entered, and that it has been improperly omitted therefrom, such person shall, upon duly taking an oath according to Form 28 in Schedule A to this Act, or to the like effect, be entitled to mark a tendered ballot paper; and such tendered ballot paper, instead of being put into the ballot box, shall be given to the Deputy Returning Officer, and shall be placed by him in an envelope and deposited in the ballot box, in the manner directed by the last preceding section with reference to the ballot papers marked in pursuance thereof; and the tendered ballot paper shall not be counted by the Deputy Returning Officer; and the name, place of residence and occupation or calling of such person shall be endorsed upon the counterfoil by the Deputy Returning Officer; and the Deputy Returning Officer shall enter or cause to be entered upon the tendered votes list the name, place of residence and occupation or calling of such person, and also a short description of the property in respect of which such person claims to have been entitled to have been entered on the voters' list, and whether it is as an owner, tenant or occupant of the property that such person claims as aforesaid. R. S. O. 1877, c. 10, s. 102.

Proceedings in case a person claims to vote and that his name has been improperly omitted from voters' list.

104. A person claiming to be entitled to vote, who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper, may, on delivering to the Deputy Returning Officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the Deputy Returning Officer, obtain another ballot paper in the place of the ballot paper so delivered up, and the Deputy Returning Officer shall immediately write the word "*Cancelled*" upon the ballot paper and upon the counterfoil, and preserve it to be returned to the Returning Officer. R. S. O. 1877, c. 10, s. 103.

Proceedings in case ballot paper spoiled so that it cannot be used.

105. During the time appointed for polling no person shall be entitled or permitted to be present in a polling place, other than the officers, candidates, clerks or agents authorized to attend at such polling place, and such voters as are for the time

Who may be present at polling place.

being actually engaged in voting ; but it shall at all times be lawful for the Deputy Returning Officer to have present, or to summon to his assistance in the polling place, any police constable or peace officer for the purpose of maintaining order, or of preserving the public peace, or preventing a breach thereof, or of removing any person or persons who may, in the opinion of the Deputy Returning Officer, be obstructing the polling or wilfully violating any of the provisions of this Act. R. S. O. 1877, c. 10, s. 104.

PROCEEDINGS AFTER THE CLOSE OF THE POLL.

Counting of votes.

106. Immediately after the close of the poll in every polling place, the Deputy Returning Officer shall, in the presence of the Poll Clerk, and of such of the candidates or of their agents as may then be present, open the ballot box, and proceed to count the votes as follows :—

Ballot papers to be examined.

1. He shall examine the ballot papers, keeping them with their printed faces upwards, and shall take all proper precautions for preventing any person from seeing the numbers printed on the back of the paper. R. S. O. 1877, c. 10, s. 105 (1).

Ballot papers which are not to be counted.

2. Every ballot paper which has not been supplied by the Deputy Returning Officer, or on which votes are given to more candidates than are to be elected, or on which anything in addition to the printed number and the initials or name of the Deputy Returning Officer on the back is written or marked, by which the voter can be identified, shall be void and shall not be counted ; but no word or mark written or made, or omitted to be written or made, by the Deputy Returning Officer, on a ballot paper, shall avoid the same. 46 V. c. 2, s. 12.

Objections to ballot papers to be noted.

3. The Deputy Returning Officer shall take a note of any objection made by a candidate, or by his agent, or by any elector present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection ; and the decision of the Deputy Returning Officer shall be final, subject only to reversal on a recount by the County Court Judge, or on petition questioning the election or return.

Objections to be numbered.

4. Every objection to a ballot paper shall be numbered, and a corresponding number shall be placed on the back of the ballot paper, and shall be initialed by the Deputy Returning Officer.

Rejected ballots to be endorsed.

5. The Deputy Returning Officer shall endorse " Rejected " on every ballot paper which he may reject as invalid, and shall endorse " Rejection objected to," if any objection be made to his decision.

Statement of result.

6. The Deputy Returning Officer shall then count up the votes given for each candidate upon the ballot papers not rejected, and make up a written statement, in words as well as in figures, of the number of votes given for each candidate, and of the number of ballot papers rejected and not counted by him, which statement shall be made under the several heads following :—

- (a) Name of polling subdivision and of Electoral District, and date of election ;
- (b) Number of votes for each candidate ;
- (c) Papers wanting signature or initials of Deputy Returning Officer ;
- (d) Papers rejected as voting for more candidates than entitled to ;
- (e) Papers rejected as having a writing or mark by which voter could be identified ;
- (f) Papers rejected as unmarked or void for uncertainty.

7. Upon the completion of the written statement, it shall be forthwith signed by the Deputy Returning Officer, the Poll Clerk, and such of the candidates or their agents as may be present, and desire to sign the statement. Statement to be signed. R. S. O. 1877, c. 10, s. 105 (3-7).

107. No more than two agents for a candidate shall be entitled to be present at the same time at the counting of the votes. Only two agents for a candidate may be present. R. S. O. 1877, c. 10, s. 106.

108. Every Deputy Returning Officer shall, at the close of the poll, certify under his signature on the voters' list, in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside. Deputies to certify the number of voters. R. S. O. 1877, c. 10, s. 107.

109. At the close of the poll the Deputy Returning Officer, on being requested so to do, shall deliver to each of the candidates, or their agents, or in the absence of the candidates or agents, to the electors present representing the candidates respectively, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers. Certificates to candidates of the state of poll. R. S. O. 1877, c. 10, s. 108.

110. Every Deputy Returning Officer, at the completion of the counting of votes after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal, and the seals of such agents of the candidates as desire to affix their seals, and marked upon the outside with a short statement of the contents of the packet, the date of the day of the election, the name of the Deputy Returning Officer, and the polling subdivision and Electoral District : Deputy Returning Officers' duties after votes are counted.

- (a) The statement of votes given for each candidate and of the rejected ballot papers ;
- (b) The used ballot papers which have not been objected to and have been counted ;
- (c) The ballot papers which have been objected to but which have been counted ;

- (d) The rejected ballot papers ;
- (e) The spoiled ballot papers ;
- (f) The tendered ballot papers ;
- (g) The counterfoils of the ballot papers ; the unused ballot papers ;
- (h) The tendered votes list ; the voters' list, with the oaths Forms 29 and 30 in Schedule A annexed thereto ; a statement of the number of voters whose votes are marked by the Deputy Returning Officer, under the heads "Physical incapacity," and "Unable to read," with the declarations of inability ; and the notes taken of objections made to ballot papers found in the ballot box ;
- (i) The commissions of the Deputy Returning Officer and Poll Clerk, with their respective oaths of office, annexed thereto. R. S. O. 1877, c. 10, s. 109.

Certain packets to be delivered to the Returning Officer.

111. The Deputy Returning Officer shall forthwith deliver the packets personally to the Returning Officer ; and if he be unable to do so, owing to illness or other cause, he shall deliver the packets to a person chosen by him for the purpose of delivering the same to the Returning Officer ; and shall mention on the outside of the cover of each of the packets the name of the person to whom the same had been so delivered, and shall take a proper receipt therefor. R. S. O. 1877, c. 10, s. 110.

Statement to be made by Deputies on return of ballot papers, etc.

112. The packets shall be accompanied by a statement made by the Deputy Returning Officer, shewing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) counted ; (2) rejected ; (3) unused ; (4) spoiled ; (5) tendered ballot papers ; (6) ballot papers given to voters, who afterwards returned the same, declining to vote ; and (7) ballot papers taken from the polling place ; which statement shall give the number of papers under each head, and is in this Act referred to as the "Ballot Paper Account." R. S. O. 1877, c. 10, s. 111.

No scrutiny.

113. No Returning Officer or Deputy Returning Officer shall grant, make or enter into a scrutiny of the votes given at an election. R. S. O. 1877, c. 10, s. 112.

Oath to be made by Deputy Returning Officer before return of voters' list.

114. The Deputy Returning Officer who has kept and closed the poll, shall, before returning the voters' list as aforesaid to the Returning Officer, make and subscribe, either before a Justice of the Peace for the County or District where he resides, or before the Returning Officer or the Poll Clerk, the oath, Form 29 in Schedule A to this Act, which oath shall thereafter be annexed to the said voters' list. R. S. O. 1877, c. 10, s. 113.

Oath to be made by Poll

115. Every Poll Clerk shall, after closing the poll at which he has acted, but before the Deputy Returning Officer

who has kept the same has returned the voters' list to the Clerk before
Returning Officer, as herein required, make and subscribe, either return of
before a Justice of the Peace for the County or District in voters' list.
which he resides, or before the Deputy Returning Officer,
or before the Returning Officer the oath, Form 30 in Schedule
A to this Act, which oath shall thereafter be annexed to the
voters' list. R. S. O. 1877, c. 10, s. 114.

116. Within one week after the close of the election, every Delivery of
Deputy Returning Officer shall deliver the ballot box used in ballot boxes
his polling subdivision to the Clerk of the Municipality within to Clerk of
which the polling subdivision is situate; and the ballot boxes Municipality
delivered to the Clerk shall be preserved by him for use at for future elec-
future elections for the Electoral District. R. S. O. 1877, c. 10, tions.
s. 115.

117.—(1) The Returning Officer, after he has received the Counting of
ballot papers and statements before mentioned of the number of the votes by
votes given in each polling place, shall, at the place and time the Returning
named from the hustings for this purpose when granting a poll Officer
open the statements, and shall not open any other of the
sealed packets except that containing the commissions of the
Deputies and their Clerks, and from their statements shall cast
up the number for each candidate; and as soon as he has thus
ascertained the result of the poll, shall forthwith declare to be
elected the candidate having the highest number of votes.
R. S. O. 1877, c. 10, s. 116 (1); 47 V. c. 4, s. 24.

(2) Where an equality of votes is found to exist between the Casting vote,
candidates, and the addition of a vote would entitle any of the
candidates to be declared elected, the Returning Officer may
give an additional vote, but shall not in any other case be
entitled to vote at an election for which he is Returning Officer.
R. S. O. 1877, c. 10, s. 116 (2).

RE-COUNT OF BALLOTS.

118.—(1) In case it is made to appear on the affidavit of a Re-count of
credible witness, to the County Judge of any County in which votes by the
the Electoral District or any part thereof is situated, at any County Judge,
time before the Returning Officer makes his return, that a
Deputy Returning Officer at an election in the Electoral
District in counting the votes has improperly counted or
rejected any ballot papers at the election, the County Judge
may, where the majority for the successful candidate is
under fifty votes, appoint a time, within the time hereinafter
limited, to re-count the votes, and shall give notice in writing
to the candidates or their agents of the time and place at which
he will proceed to re-count the same. R. S. O. 1877, c. 10,
s. 117; 47 V. c. 4, s. 25 (1).

(2) Where there is a District Judge, the application for a Re-count
re-count shall be made to him, or to one of the District by District
Judge.

Judges if there are more than one having jurisdiction in the Electoral District or some part thereof; and those sections of this Act which provide for or regulate a re-count by a County Judge, shall apply to a re-count by a District Judge.

Before whom affidavit for re-count may be made.

(3) The affidavit required in order to a re-count of votes, may be made before either a commissioner for taking affidavits, or a Justice of the Peace, or the Election Clerk.

Time within which application to be made.

(4) The application for the appointment is to be within four days after the Returning Officer has, under section 117, cast up the number of votes for each candidate, and, subject to a re-count, ascertained the result of the poll, and declared the candidate having the highest number of votes.

Time appointed for re-count.

(5) The time appointed for the re-count shall not be more than four days from the date of the appointment.

Notice of re-count.

(6) Notice of the re-count shall be served on the candidates appearing to be elected or their agents not less than two days before the time appointed for the re-count, or within such other time as the Judge may direct.

Attendance of Clerk of County Court.

(7) The Judge may require the Clerk of the District or County Court, as the case may be, to be present at any re-count of votes. 47 V. c. 4, s. 25 (2-7.)

Who may be present on re-count.

119. The County Judge, the Returning Officer and his Election Clerk, and the candidates, and one agent for each candidate, appointed in writing by the candidate to attend, shall be entitled to be present during the proceedings; and if any candidate is not present in person, two agents for such candidate, appointed as aforesaid, shall be entitled to be present; and, except with the sanction of the County Judge, no other person shall be present at such re-count of the votes. R. S. O. 1877, c. 10, s. 118; 47 V. c. 4, s. 25 (8).

Opening of packets.

120. At the time and place appointed, the County Judge shall proceed to re-count all the votes or ballot papers returned by the several Deputy Returning Officers, and shall, in the presence of the parties aforesaid, if they attend, open the sealed packets containing—(1) the used ballot papers which have not been objected to and which have been counted; (2) the ballot papers which have been objected to but which have been counted; (3) the rejected ballot papers; (4) the spoiled ballot papers, and no other ballot papers or counterfoils; and in re-counting the votes care shall be taken that the mode in which any particular elector has voted shall not be discovered. R. S. O. 1877, c. 10, s. 119.

The re-count to be a continuous proceeding.

121. The County Judge shall, as far as practicable, proceed continuously with the re-count of the votes, allowing only time for refreshment, excluding only Sundays and, on other days (except so far as he and the parties aforesaid agree), the hours between six o'clock in the evening and nine on the succeeding

morning. During the excluded time the County Judge shall place the ballot papers and other documents relating to the election under his own seal and the seals of such other of the parties as desire to affix their seals, and shall otherwise take precautions for the security of such papers and documents. R. S. O. 1877, c. 10, s. 120.

122. The County Judge shall proceed to re-count the votes according to the rules set forth in sections 106 and 107 of this Act, Proceed to re-count. and shall verify or correct the ballot paper account and statement of the number of votes given for each candidate; and upon the completion of such re-count, or as soon as he has thus ascertained the result of the poll, he shall seal up all the ballot papers in separate packets, and shall forthwith certify the result to the Returning Officer, who shall then declare to be elected the candidate having the highest number of votes; and in case of an equality of votes, the Returning Officer shall have the casting vote, as provided in section 117 of this Act. R. S. O. 1877, c. 10, s. 121.

123. The Returning Officer, after the receipt of a notice from the County Judge of such re-count of ballots, shall delay making his return to the Clerk of the Crown in Chancery until he receives a certificate from the County Judge of the result of the re-count, and upon receipt of such certificate the Returning Officer shall proceed to make his return as provided in this Act. Returning Officer not to make return till receipt of certificate from County Judge. R. S. O. 1877, c. 10, s. 122.

124. In case of a re-count of votes or ballot papers under the preceding six sections of this Act, the Returning Officer shall, on a written notice from the Judge, produce the ballot papers at the time and place appointed for the re-count, and the same shall continue in the custody of the Returning Officer; and he shall continue to be responsible therefor, subject to any directions which the Judge may give in respect of the said ballot papers. 41 V. c. 21, s. 13. Production and custody of ballot papers on a re-count.

PROCEEDING IN CASE OF LOSS OR INJURY OF VOTERS' LIST OR OTHER DOCUMENTS.

125.—(1) In case a voters' list is stolen or taken from its lawful place of deposit for the time being, or has been lost or destroyed, or otherwise placed beyond the reach of the Deputy Returning Officer to whom the custody of the voters' list for the time being belonged, at any time before he has made his return of the same to the Returning Officer, the Deputy Returning Officer shall attend personally on the Returning Officer, and report to him the fact of the loss of the said voters' list; and the Poll Clerk of the Deputy Returning Officer, so soon as he is informed of the loss personally or by letter, either by or from the Deputy Returning Officer, or the Returning Officer himself, or has other good reasons for believing that the Proceedings in case voters' list is stolen, etc.

loss has occurred, shall forthwith attend personally on the Returning Officer.

Examination
of Deputy Re-
turning Officer
and Poll
Clerk, etc.

(2) The Returning Officer shall examine the Deputy Returning Officer and Poll Clerk upon oath or affirmation, as the occasion may require, as to the loss of the voters' list, and the contents thereof, which examination shall be taken down by him in writing, and be subscribed by the Deputy Returning Officer and Poll Clerk, and annexed to the return in lieu of the voters' list.

Punishment of
Deputy Re-
turning Officer
or Poll Clerk
refusing to at-
tend or be
sworn.

(3) If either the Deputy Returning Officer or the Poll Clerk omits to attend on the Returning Officer as hereby required, or refuses to be sworn or affirmed by such Returning Officer as aforesaid, he shall incur a penalty of \$200, and in the case of his refusal to be sworn or affirmed as aforesaid, he may be committed by the Returning Officer to the common gaol of the County or District, until thence discharged by an order in that behalf made by the Legislative Assembly. R. S. O. 1877, c. 10, s. 123.

Duty of Re-
turning Officer
believing any
election docu-
ments to be al-
tered, etc.

126. When the Returning Officer, having received a voters' list, or any document connected with the election, has reason to believe that the same has been altered, injured or obliterated, or that additions have been made thereto, he shall establish the true facts in the manner above provided in case of the loss of a voters' list. R. S. O. 1877, c. 10, s. 124.

RETURN, PRESERVATION OF DOCUMENTS, ETC.

Time within
which return
to be made
to Clerk
of the Crown
in Chancery.

127. The Returning Officer shall make and transmit his return to the Clerk of the Crown in Chancery :

(a) Where the majority of the successful candidate is over fifty, within ten days after he has ascertained the result of the poll, and

(b) Where the majority of the successful candidate is under fifty, after the fifth day from the day on which he receives the last return of any Deputy Returning Officer, and within ten days after he has ascertained the result of the poll, unless he has received a notice from the County Judge of a re-count of ballots, in which case he shall delay making his return until he receives a certificate from the County Judge of the result of the re-count, and upon receipt of the certificate the Returning Officer shall proceed to make his return. R. S. O. 1877, c. 10, s. 125.

Returning
Officer to
transmit to
Clerk of the
Crown in
Chancery
the ballot
papers, etc.

128. The Returning Officer shall at the same time transmit to the Clerk of the Crown in Chancery, enclosed in a box or other covering, sealed with the seal of the Returning Officer, all the packets of ballot papers in his possession, together with the reports, the ballot paper accounts, tendered votes lists, statements relating thereto, declarations of

inability to read or mark, packets of counterfoils, and voters' lists, with documents annexed thereto, sent by the Deputy Returning Officers, endorsing on the packet a description of its contents, and the date of the election to which they relate, and also the name of the Electoral District for which the election was held; and the return and the packet, so directed as aforesaid to be transmitted to the Clerk of the Crown in Chancery, may be transmitted by express or through the post-office, the same being first duly registered. R. S. O. 1877, c. 10, s. 126.

129. The Returning Officer shall also, before transmitting his return to the Clerk of the Crown in Chancery, upon application, deliver to each of the candidates, or their agents, or if no application be made, shall, within the same period, transmit by mail to each candidate a duplicate of the return, which duplicate shall stand in lieu of an indenture. R. S. O. 1877, c. 10, s. 127.

Returning Officer to transmit duplicate of return to each candidate.

130. The Clerk of the Crown in Chancery shall retain for the period of one year all documents relating to an election forwarded to him in pursuance of this Act by a Returning Officer, and then, unless otherwise directed by a rule or order of the Court of Appeal or a Judge thereof, or a Judge on the rota for the trial of election petitions, he shall destroy the same by fire. R. S. O. 1877, c. 10, s. 128.

Clerk of Crown in Chancery (unless otherwise ordered) to destroy documents returned to him after one year.

131. If a Returning Officer wilfully delays, neglects or refuses duly to return a person who ought to be returned to serve in the Legislative Assembly for an Electoral District, such person may, in case it has been determined on the hearing of an election petition under *The Ontario Controverted Elections Act*, that such person was entitled to have been returned, sue the Returning Officer having so wilfully delayed, neglected, or refused duly to make the return of his election in any Court of Record in Ontario, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit, provided the action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial relating to the election. R. S. O. 1877, c. 10, s. 129.

Returning Officer may be sued for neglecting to return any person duly elected.

Rev. Stat. c. 10.

PUBLICATION OF RETURN.

132. The Clerk of the Crown in Chancery shall, on receiving the return of a member elected to the Legislative Assembly, give in the next ordinary issue of the *Ontario Gazette*, notice of the receipt of the return, the date of his receiving the same, and the name of the candidate elected. R. S. O. 1877, c. 10, s. 130.

Notice of return in *Ontario Gazette*

INSPECTION OF DOCUMENTS.

Inspection of
rejected ballot
papers, etc.

133. No person shall be allowed to inspect rejected ballot papers or ballot papers objected to under section 106 of this Act in the custody of the Clerk of the Crown in Chancery, except under the rule or order of the Court of Appeal or a Judge thereof, or a Judge on the rota for the trial of election petitions; such rule or order to be granted by the Court or Judge on being satisfied by evidence on oath that the inspection or production of the ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and the order for the inspection or production of ballot papers may be made, subject to such conditions as to persons, time, place, and mode of inspection or production, as the Court or Judge making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. R. S. O. 1877, c. 10, s. 131.

Inspection of
counterfoils
and counted
ballot papers.

134.—(1) No person shall, except by order of the Court or Judge as aforesaid, open the sealed packets of counterfoils, after the same have been once sealed up; and no person shall, except by order of a tribunal having cognizance of petitions complaining of undue returns or undue elections, be allowed to inspect the counted ballot papers (other than ballot papers objected to under section 106 of this Act) in the custody of the Clerk of the Crown in Chancery; and the orders may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the Court, Judge or tribunal, making the order may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery.

(2) On making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted be not discovered until he has been proved to have voted, and his vote has been declared by a competent tribunal to be invalid. R. S. O. 1877, c. 10, s. 132.

Inspection of
other docu-
ments.

135. All documents forwarded by a Returning Officer, in pursuance of this Act, to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection, at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery with the consent of the Speaker of the Legislative Assembly; and the Clerk of the Crown in Chancery shall supply copies of or extracts from the documents to any person demanding the same, on payment for the same at the rate of ten cents for each folio of one hundred words, and in computing the number of words in the copy or extract every figure shall be counted as a word. R. S. O. 1877, c. 10, s. 133.

Evidence as to
documents,
ballot papers,
etc., in certain
cases.

136. Where a rule or order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to a specified election, the production of

the document by the Clerk or his agent, in such manner as may be directed by the rule or order, shall be conclusive evidence that the document relates to the specified election: and any endorsement appearing on any packet of ballot papers produced by the Clerk of the Crown in Chancery or his agent, shall be evidence of the papers being what they are stated to be by the endorsement: and the production, from proper custody, of a ballot paper purporting to have been used at an election, and of a counterfoil marked with the same printed number, and having a number marked thereon in writing, shall be deemed *prima facie* evidence that the person who voted by the ballot paper was the person who, at the time of the election, had prefixed to his name in the voters' list used for the polling subdivision in which he voted at the election, the same number as that written on such counterfoil: or in the case of tendered ballot papers marked in the manner hereinbefore provided by persons not named in the voters' list, the production, from the proper custody, of any such ballot paper, purporting to have been used at an election, and of a counterfoil, marked with the same printed number, and having a name written thereon (other than the name of the Deputy Returning Officer), shall be deemed *prima facie* evidence that the person who voted by the ballot paper was the person whose name was so written as aforesaid on the counterfoil. R. S. O. 1877, c. 10, s. 134.

KEEPING THE PEACE AND GOOD ORDER AT ELECTIONS.

137. From the time when a Returning Officer or Deputy Returning Officer has taken and subscribed the oath of office until the day next after the final closing of the polls at the election, the Returning Officer or Deputy Returning Officer, respectively, shall be a conservator of the peace, and invested, for the maintenance of the peace, for the arrest, detention, or admission to bail, trial and conviction of any person or persons who break the law or trouble the peace, with the same powers with which Justices of the Peace are invested in this Province. R. S. O. 1877, c. 10, s. 135.

Returning Officer and his Deputies to be conservators of the peace.

138. For the maintenance of the peace and of good order at the elections, each Returning Officer or Deputy Returning Officer respectively, may require the assistance of all Justices of the Peace, constables, and other persons present at the election, whether at the place of holding the election, or at any polling place, to aid him in so doing, and may also swear in as many special constables as he deems necessary. R. S. O. 1877, c. 10, s. 136.

Justices, etc., may be required to aid in keeping peace.

139. On a requisition in writing made by a candidate or by his agent, or by any two or more electors, a Returning Officer or Deputy Returning Officer shall swear in such special constables. R. S. O. 1877, c. 10, s. 137.

Special constables to be sworn in in case

Returning
Officer or
Deputy may
order arrest of
persons dis-
turb-
ing the
peace.

Penalty.

Such arrest
not to prevent
other punish-
ment.

Returning
Officer or
Deputy may
demand sur-
render of all
weapons.

Penalty.

Penalty on
persons con-
victed of bat-
tery.

Restrictions
as to carrying
arms while
poll is open.

140. Every Returning Officer or Deputy Returning Officer respectively, may arrest or cause to be arrested, by verbal order, and may place in the custody of one or more constables or other persons, for such time as in his discretion he deems expedient, any person disturbing the peace and good order, or may cause such person to be imprisoned for any such offence, under an order signed by him, for a period not later than the final closing of the election or of the poll, respectively; which order all persons shall obey without delay under a penalty of \$20 for any refusal or neglect so to do. R. S. O. 1877, c. 10, s. 138.

141. No such arrest, detention or imprisonment shall in any manner exempt the person so arrested, detained, confined or imprisoned, from any pains or penalty to which he has become liable by reason of anything by him done contrary to the true intent and meaning of this Act or otherwise. R. S. O. 1877, c. 10, s. 139.

142. A Returning Officer or Deputy Returning Officer may, during any part of the day whereon an election is to be begun, holden or proceeded with, or on which a poll for an election is to be begun, holden or proceeded with, demand and receive from any person whomsoever, any offensive weapon, such as firearms, swords, staves, bludgeons or the like, with which any such person is armed, or which any such person has in his hands or personal possession; and every person who upon demand declines or refuses to deliver up to the Returning Officer or Deputy Returning Officer, any offensive weapon as aforesaid, shall incur a penalty of \$20. R. S. O. 1877, c. 10, s. 140.

143. Every person convicted of a battery committed during any part of the days whereon an election, or any poll for an election, is to be begun, holden or proceeded with, within the distance of two miles of the place where the election or poll is so begun, holden, or proceeded with, shall incur a penalty of \$50. R. S. O. 1877, c. 10, s. 141.

144. Except the Returning Officer or his Deputy, or the Poll Clerk, or one of the constables or special constables appointed by the Returning Officer or his Deputy for the orderly conduct of an election or poll, and the preservation of the public peace thereat, no person who has not had a stated residence in the township or union of townships, or ward, or subdivision, for at least six months next before the day of the election, shall come during any part of the day upon which the poll is to remain open, into the township or union of townships, ward, or subdivision, armed with offensive weapons of any kind, as fire-arms, swords, staves, bludgeons, or the like; nor shall any person whomsoever being in the township, union of townships, ward, or subdivision, arm himself, during any part of the day, with such offensive weapons, and thus

armed approach within the distance of two miles of the place where the poll for such subdivision is held, unless called upon to do so by lawful authority. R. S. O. 1877, c. 10, s. 142.

145. No candidate for the representation of any Electoral District, or any other person, shall furnish or supply any ensign, standard, or set of colours, or other flag, to or for any person or persons whomsoever, with intent that the same should be carried or used in such Electoral District on the day of election, or within eight days before such day, or during the continuance of the election or polling, by such person or any other, as a party flag, to distinguish the bearer thereof and those who might follow the same, as the supporters of such candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate ;

Party ensigns, flags, etc., not to be carried during the election or within eight days before it.

Nor shall any person for any reason carry or use any ensign, standard, set of colours, or other flag, as a party flag, within the Electoral District on the day of the election or polling, or within eight days before such day, or during the continuance of the election. R. S. O. 1877, c. 10, s. 143.

146. No candidate for the representation of any Electoral District, or any other person, shall furnish or supply any ribbon, label, or the like favour, to or for any person whomsoever, with intent that the same should be worn or used within the Electoral District on the day of election or polling, or within eight days before such day, or during the continuance of the election, by such person or any other as a party badge to distinguish the wearer as the supporter of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate ;

Party badges, etc., not to be used.

Nor shall any person use or wear any ribbon, label, or other favour, as such badge, within the Electoral District, on the day of the election or polling, or within eight days before such day, or during the continuance of the election. R. S. O. 1877, c. 10, s. 144.

147. Every person offending against any of the provisions of the next preceding three sections, shall incur a penalty of \$100. R. S. O. 1877, c. 10, s. 145.

Penalty.

MAINTAINING SECRECY OF PROCEEDINGS.

148.—(1) Every officer, clerk and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place ; and shall not communicate, before the poll is closed, to any person any information as to the number on the voters' list of any person who has or who has not applied for a ballot paper or voted at that polling place.

Maintaining secrecy of proceedings.

(2) No officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling

place information as to the candidate for whom a voter at such polling place is about to vote or has voted.

(3) No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate for whom a voter at a polling place is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at a polling place, or upon the counterfoil which was attached to the ballot paper, or as to the number prefixed to the name of a voter in the voters' list.

(4) Every officer, clerk and agent in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at the counting, the number on the back of any ballot paper, or communicate any information obtained at the counting as to the candidate for whom any vote is given in any particular ballot paper.

(5) No person shall, directly or indirectly, induce a voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Penalty.

(6) Every person who acts in contravention of this section, shall be liable, on summary conviction before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, to imprisonment for any term not exceeding six months, with or without hard labour. R. S. O. 1877, c. 10, s. 146.

Statutory declaration of secrecy.

149. Every Returning Officer and every officer, clerk and agent authorized to attend at a polling place, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the Returning Officer, of a Justice of the Peace, and, if he is any other officer, or a clerk or an agent, in the presence of a Justice of the Peace, the Returning Officer or a Deputy Returning Officer, and the statutory declaration of secrecy shall be according to Form 31 in Schedule A to this Act, or to the like effect. R. S. O. 1877, c. 10, s. 147.

No one compellable to disclose his vote.

150. No person who has voted at an election shall, in any legal proceedings to question the election or return, be required to state for whom he has voted. R. S. O. 1877, c. 10, s. 148.

PREVENTION AND PUNISHMENT OF CORRUPT PRACTICES AND OTHER ILLEGAL ACTS AT ELECTIONS.

Certain acts to be bribery.

151.—(1) The following persons shall be deemed guilty of bribery and shall be punished accordingly :—

Giving money, etc., to voters.

(a) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or

agrees to give or lend, or offers or promises any money or valuable consideration, or promises or endeavours to procure any money or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid, on account of such voter having voted or refrained from voting at an election ;

(b) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises, any office, place or employment, or promises to procure, or to endeavour to procure any office, place or employment to or for any voter or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at an election ;

Procuring office, etc., for voters,

(c) Every person who directly or indirectly, by himself, or by any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in the Legislative Assembly, or the vote of any voter at an election ;

or for persons influencing voters,

(d) Every person who upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person to serve in the Legislative Assembly, or the vote of any voter at an election ;

Corruptly influencing voters,

(e) Every person who advances or pays, or causes to be paid money to, or to the use of, any other person with the intent that such money or any part thereof shall be expended in bribery at an election, or who knowingly pays, or causes to be paid, money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election.

Advancing or paying money or bribery.

R. S. O. 1877, c. 10, s. 149 (1).

(2) Every person so offending shall incur a penalty of \$200 ;
 but the actual personal expenses of a candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising, and other lawful and reasonable expenses incurred by the candidate or any agent in good faith and without any corrupt intent in connection with the election, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. 42 V. c. 4, s. 19. Penalty.

Certain acts
by voters to be
bribery.

Contracting
to vote for
money, etc.

Receiving
money for
voting.

Penalty.

Furnishing
entertainment
forbidden, ex-
cept at resi-
dence of the
person fur-
nishing.

Candidate not
corruptly to
provide
refreshment.

Penalty.

Giving meat
or drink to
electors.

152.—(1) The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

(a) Every voter who, before or during an election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election ;

(b) Every person who, after an election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at an election.

(2) Every person so offending shall incur a penalty of \$200. R. S. O. 1877, c. 10, s. 150.

153.—(1) No candidate for the representation of an Electoral District shall, nor shall any other person, either provide or furnish drink or other entertainment at the expense of such candidate or other person, to any meeting of electors assembled for the purpose of promoting the election, previous to or during the election, or pay or promise or engage to pay for such drink or other entertainment, except only that nothing herein contained shall extend to any entertainment furnished to any such meeting of electors by or at the expense of any person or persons at his, her, or their usual place of residence.

(2) Every person offending against the provisions of this section shall incur a penalty of \$100. R. S. O. 1877, c. 10, s. 151.

154. No candidate shall corruptly, by himself or by or with any person, or by any other way or means on his behalf, at any time either before or during an election, directly or indirectly give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected, or for being elected, or for the purpose of corruptly influencing such person or any other person to give, or refrain from giving, his vote at the election: and every person so acting shall be deemed guilty of corrupt practice, and shall forfeit, to any person who sues for the same, the sum of \$200, with full costs of suit, in addition to any other penalty to which he may be liable therefor. R. S. O. 1877, c. 10, s. 152.

155. The giving or causing to be given to any voter on the nomination day or day of polling, on account of such voter being about to vote or having voted, any meat, drink or refreshment, or any money or ticket to enable such voter to pro-

cure refreshment, shall be deemed a corrupt practice, and the Penalty. person offending shall also forfeit, to any person suing for the same, the sum of \$10 for each offence, with full costs of suit. R. S. O. 1877, c. 10, s. 153.

156.—(1) Every candidate who, before or during the election, makes a bet or wager, or takes a share or interest in, or in any manner becomes a party to, any bet or wager, upon the result of the election in the electoral district, or in any part thereof, or on any event or contingency relating to the election, shall be guilty of corrupt practice. Wagering or betting.

(2) Every candidate or other person who provides money to be used by another in betting or wagering upon the result of an election to the Legislative Assembly, or on any event or contingency relating to the election, shall be guilty of corrupt practices.

(3) Every person who for the purpose of influencing an election makes a bet or wager on the result thereof, in the electoral district or any part thereof, or on any event or contingency relating thereto, shall be guilty of corrupt practice. 47 V. c. 4, s. 3.

157. And whereas doubts may arise as to whether the hiring of teams and vehicles to convey electors to and from the polls, the providing or furnishing railway tickets or passes free of charge for the conveyance of voters to or from the polls, and the paying of railway fares and other expenses of voters, be or be not according to law :—It is declared and enacted, that Hiring of vehicles by candidates to convey electors illegal.

The hiring or promising to pay or paying for a horse, team, carriage, cab or other vehicle, by a candidate, or by a person on his behalf, to convey voters to or near or from the poll, or from the neighbourhood thereof, at an election, or the payment by a candidate, or by a person on his behalf, of the travelling and other expenses of a voter in going to or returning from an election, shall be illegal acts; and the person so offending shall thereby incur a penalty of \$100;

And every elector who hires a horse, cab, cart, waggon, sleigh, carriage or other conveyance for a candidate, or for an agent of a candidate, for the purpose of conveying electors to or from the polling place or places, shall *ipso facto* be disqualified from voting at the election, and for every such offence shall incur a penalty of \$100. R. S. O. 1877, c. 10, s. 154; 47 V. c. 4, s. 26. Penalty.

158. Every person who, directly or indirectly, by himself or any other person on his behalf, makes use of, or threatens to make use of any force, violence or restraint, or inflicts, or threatens the infliction by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from vot- Persons guilty of undue influence.

Penalty.

ing at an election, or who, by abduction, duress, or any fraudulent device or contrivance, impedes, prevents, or otherwise interferes with, the free exercise of the franchise of a voter, or thereby compels, induces, or prevails upon a voter, either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall incur a penalty of \$200. R. S. O. 1877, c. 10, s. 155.

Personation to be a corrupt practice.

159.—(1) Every person who aids or abets, counsels or procures the commission of the offence of personation, shall be deemed guilty of corrupt practice.

Personation defined.

(2) A person shall be deemed to be guilty of the offence of personation who, at an election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at an election, applies at the same election for a ballot paper in his own name, and every such person shall incur a penalty of \$200. R. S. O. 1877, c. 10, s. 156; 47 V. c. 4, s. 2.

Voting by persons not entitled to vote to be a corrupt practice.

160. Every person who votes or induces or procures any person to vote at an election, knowing that such person has no right to vote at the election, shall be guilty of a corrupt practice, and shall be liable to a penalty of \$100. 47 V. c. 4, s. 4.

No strong drink to be sold on polling day.

161. No spirituous or fermented liquor or strong drink shall be sold or given at any hotel, tavern, shop or other place within the limits of a polling subdivision, during the polling day therein or any part thereof, under penalty of \$100 for every offence; and the offender shall be subject to imprisonment not exceeding six months at the discretion of the Court or Judge, in default of payment of such fine. R. S. O. 1877, c. 10, s. 157.

Penalty.

DISQUALIFICATION FOR CORRUPT PRACTICES.

Corrupt practices by candidate or his agent to avoid election.

162. Where it is found upon the report of a Judge upon an election petition that any corrupt practice has been committed by a candidate at an election, or by his agent, whether with or without the actual knowledge and consent of the candidate, the election of the candidate, if he has been elected, shall, except in the cases mentioned in section 163, be void. R. S. O. 1877, c. 10, s. 158.

Corrupt practices by agents without knowledge of candidate not necessarily to avoid election.

163. To prevent the expense and trouble of new elections when unnecessary and useless; in case of a corrupt practice or practises being committed by an agent without the knowledge and consent of the candidate, if the corrupt practice or practises was or were of such trifling nature, or was or were of such trifling extent, that the result cannot have been affected, or be reasonably supposed to have been affected by such practice or practises, either alone or in connection with other illegal prac-

trices at the election, such corrupt practice or practices shall not avoid the election. R. S. O. 1877, c. 10, s. 159 ; 47 V. c. 4, s. 27.

164. Where it is found by the report of the Judges upon an election petition that any corrupt practice has been committed, by or with the actual knowledge or consent of a candidate at an election, and the next section does not apply, then in addition to his election, if he has been elected, being void, such candidate shall, during the eight years next after the date of his being so found guilty, be incapable of being elected to and of sitting in the Legislative Assembly, and of being entered in any voters' list as a voter and of voting at any election, and of holding any office, at the nomination of the Crown or of the Lieutenant Governor, in Ontario, or any municipal office. R. S. O. 1877, c. 10, s. 161 ; 47 V. c. 4, s. 28.

Candidate guilty of corrupt practice incapable for eight years of being elected, etc.

165. If it appears to the Court or the Judges or one of them trying an election petition, that an act constituting in law a corrupt practice was committed by a candidate, or with his knowledge and consent, but without any corrupt intent, and in an ignorance which was involuntary and excusable, and that the evidence shewed the candidate to have honestly desired, and in good faith endeavoured as far as he could, to have the election conducted according to law, the candidate shall not be subject to the penalties and disabilities which he would but for this section incur under the next preceding section. R. S. O. 1877, c. 10, s. 162 ; 47 V. c. 4, s. 29.

Corrupt practice committed in excusable ignorance not necessarily to avoid election or disqualify candidate.

166. If on the trial of an election petition, it is proved that an elector voting at the election was bribed, he shall be disqualified from voting at the next general election ; and if it is proved that a corrupt practice has been committed by an elector voting at the election, his vote shall be null and void. R. S. O. 1877, c. 10, s. 163.

Vote by elector committing any corrupt practice void.

167. In case a candidate or the agent of a candidate is proved to have committed a corrupt practice with respect to a voter, there shall on a scrutiny be struck off from the number of votes given for such candidate one vote for every person in regard to whom such corrupt practice is proved to have been committed, and without any examination of the ballot paper or other evidence to ascertain how such voter in fact voted. 47 V. c. 4, s. 5.

Votes to be struck off on scrutiny when corrupt practice is proved.

168.—(1) Every person other than a candidate found guilty of a corrupt practice in a proceeding in which, after notice of the charge, he has had an opportunity of being heard, shall, during the eight years next after the time at which he is so found guilty, be incapable of being elected to and of sitting in the Legislative Assembly, and of being registered as a voter, and of voting at any election, and of holding any office at the nomination of the Crown, or of the Lieutenant Governor, in Ontario, or any municipal office.

Punishment of persons found guilty of any corrupt practice.

A merely technical or unintentional contravention of the law not to subject to penalties, etc.

(2) No person other than a candidate shall be subject to the disabilities set forth in the preceding sub-section, (1) by reason of a merely technical breach of law, or (2) by reason of any act not being an intentional violation of law, and not involving moral culpability or affecting the result of the election. R. S. O. 1877, c. 10, s. 164.

Election of candidate void for employing agent previously found guilty of corrupt practice.

169. If on the trial of an election petition, any candidate is proved to have personally engaged at the election to which the petition relates, as a canvasser or agent in relation to the election, any person, knowing that such person has, within eight years previous to such engagement, been found guilty of any corrupt practice by a competent legal tribunal, or by the report of the Judges upon an election petition, the election of such candidate shall be void. R. S. O. 1877, c. 10, s. 165.

Effect of avoidance of a prior election.

170. To remove doubts as to the effect, upon a subsequent election, of the avoidance of a prior election, held for the same Electoral District for the same Legislative Assembly, it is hereby enacted :—That such subsequent election shall be deemed and taken, as respects both candidates and voters, to be a new election, in law and in fact, to all intents and purposes, except as to the personal acts of the candidates and the acts of agents of candidates done with the knowledge and consent of the candidates, and so found and reported by the Judges in deciding that the former election was void, such finding not being reversed in appeal. R. S. O. 1877, c. 10, s. 166 ; 47 V. c. 4, s. 30.

Removal of disqualification on proof that disqualification was procured by perjury.

171. If, at any time after any person has become disqualified by virtue of this Act, the witnesses or any of them on whose testimony such person has so become disqualified are, upon the prosecution of such person, convicted of perjury in respect of such testimony, it shall be lawful for such person to move the Court of Appeal to order, and the Court shall, upon being satisfied that such disqualification was procured by reason of perjury, order that the disqualification shall thereafter cease and determine, and the same shall cease and determine accordingly. R. S. O. 1877, c. 10, s. 167.

Penalty for voting when under disqualification.

172. Every person wilfully voting at an election, without having, at the time of his so voting, all the qualifications required by law for entitling him so to vote, shall incur a penalty of \$200, and, subject to the provisions of section 19 of *The Voters' Lists Act*, his vote shall, moreover, be null and void ; and in any action or prosecution instituted as hereinafter provided against such person for the recovery of the penalty, the burden of the proof of such person having at the time of his so voting at the election, all the said qualifications, shall fall upon him and not upon the party instituting the action or prosecution. R. S. O. 1877, c. 10, s. 168.

Rev. Stat. c. 8.
Proof of qualification to be on person voting.

Penalty for voting more than once.

173. Every person who votes more than once at the same election shall, for so doing, incur a like penalty of \$200, and

every vote he gives subsequently to his first vote shall be null and void. R. S. O. 1877, c. 10, s. 169.

174. No person shall make, execute, accept or become a party to any lease, deed, or other instrument, or become a party to any verbal arrangement, whereby a colourable interest in any land, house or tenement is conferred, in order to qualify any person to vote at an election; and every person violating the provisions of this section, besides being liable to any other penalty prescribed in that behalf, shall incur a penalty of \$100, and every person who induces, or attempts to induce, another to commit an offence under this section, shall incur a like penalty. R. S. O. 1877, c. 10, s. 170. *See also* cap. 8, s. 37.

Colourable transfer of property in order to confer vote.

175. If lands or tenements are transferred or conveyed to a person, by any title or instrument whatever, fraudulently, and for the purpose of giving him the qualification requisite to enable him to vote, and if such person votes at any election, upon such lands or tenements, he shall incur a penalty of \$200; and nevertheless the transfer or conveyance, notwithstanding any agreement to annul or revoke the same, or to reconvey such lands or tenements, shall be valid, as between the parties thereto; and every agreement to annul or revoke such transfer or conveyance, or to reconvey such lands or tenements, shall be null and void. R. S. O. 1877, c. 10, s. 171.

Penalty for fraudulent conveyances in order to give a vote.

Such conveyances to be valid between the parties.

176. Every executory contract or promise or undertaking, in any way referring to, arising out of, or depending upon, an election under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law; but this provision shall not enable any person to recover back money paid for lawful expenses connected with the election. R. S. O. 1877, c. 10, s. 172.

Contracts arising out of elections to be void.

177. No pecuniary penalty or forfeiture imposed by an Act of the Legislature of Ontario, shall be recoverable for any act of bribery or corrupt practice at an election, in case it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the said act; but this provision shall not apply in case the Judge, before whom the person claiming the benefit thereof is charged, certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence charged, and that such person was in fact the principal offender. R. S. O. 1877, c. 10, s. 173.

No statutory penalty for corrupt practice where the party charged has first prosecuted a party jointly liable.

Proviso.

COURT FOR TRIAL OF ILLEGAL ACTS.

178. Any two of the Judges appointed for the trial of election petitions shall be and constitute a Court for the trial of all

Court constituted for trial of illegal acts.

corrupt practices and other illegal acts committed during an election, being offences in respect of which this Province has legislative authority. R. S. O. 1877, c. 10, s. 174.

Procedure by summons in case charge of corrupt practice made against person not a party to petition.

179.—(1) In case, in and by an affidavit filed at, before, or after the trial of an election petition, or from the evidence at the trial, any person not a party to the petition is charged with, or appears to have committed, any corrupt practice or other illegal act in connection with the election, the Judges or Judge trying the petition, or any Judge upon the rota for the trial of election petitions, may order such person to be summoned to appear to answer the charge or charges stated in the summons at a time and place to be named in the summons.

Issue and hearing of summons.

(2) The summons may be issued or returnable at any place in this Province, and may be heard and disposed of by any Judge or Judges upon the rota for the trial of election petitions or by any Judge of the High Court holding a sittings of the said Court for the trial of civil or criminal causes.

Service of summons.

(3) Every summons issued under this section may be served by delivering a copy of the summons to the person summoned, or to some inmate of his usual place of abode at such place of abode.

On return of summons judge to dispose of case.

(4) Upon the return of the summons and upon proof of service thereof, whether the person charged appears or not, the Judge or Judges attending to hear the matters charged, or before whom the summons is returnable, shall investigate and dispose of the case in a summary manner, and shall have the same powers, jurisdiction and authority for the investigation as two Judges sitting at the trial of an election petition have for the investigation of a charge of a corrupt practice alleged in the petition to have been committed by the candidate against whom the petition is filed, and shall have authority, from time to time, and from place to place, to adjourn the hearing of the case or the giving of his or their decision.

Authority and powers of judge.

Refusal to attend on summons.

(5) In case the person so summoned neglects or refuses to attend in pursuance of the summons, then upon proof being made of such person having been duly summoned, the Judge or Judges may either issue his or their warrant to compel the appearance of such person, or if he was personally served, or if the Judge or Judges is or are satisfied that he is aware of the summons and might have been present had he so desired, may pronounce judgment in his absence.

Person charged to be allowed to make full defence.

(6) The person charged with committing the corrupt practice or other illegal act shall be allowed to make his full answer and defence and to have all witnesses examined and cross-examined by counsel.

If convicted judgment to be for money penalty.

(7) If, either from the admission of the party or from the evidence adduced, the Judge or Judges is or are satisfied that the person charged has committed any corrupt practice or prac-

tices or illegal act or acts mentioned in the summons, he or they shall adjudge that the said person has committed the corrupt practice or practices, or illegal act or acts, and shall order him to pay to the person at whose instance the summons was issued, hereafter called the prosecutor, the amount of the money penalty or penalties which is or are by law assigned to the offence or offences of which he has been convicted as aforesaid, and the same shall be a bar to any other proceeding for the penalty or penalties so ordered to be paid.

(8) If the person who appears to have committed such corrupt practice or illegal act, or is charged with having committed the same, is present in court, the Judge or Judges, instead of ordering him to be summoned as aforesaid, may then and there state to him the offence or offences which he appears to have committed, or is charged with having committed, and may appoint a time and place for hearing and adjudicating in respect thereof, and thereupon the same proceedings may be had as if a summons had issued in respect of the said offence or offences.

Notice to person charged when present.

(9) Where, from the evidence given at the trial as aforesaid, there appears reason to believe some person has committed a corrupt practice or illegal act, the Judge or Judges who are trying, or have tried, the petition may direct the County Attorney, or may direct any other solicitor or counsel who is then present, to institute or carry on proceedings under this section on behalf of Her Majesty.

Judge may direct prosecution.

(10) If any punishment in addition to or instead of a money penalty is by law assigned to the commission of any offence of which such person has been found guilty, the Judge or Judges shall sentence the person so found guilty to undergo such punishment and shall give all necessary directions in respect thereto, and in case imprisonment is imposed (whether with or without hard labour), the Judge or Judges may direct in what gaol or other place of confinement the person convicted shall be confined, or in default of any place being named such imprisonment shall be in the common gaol of the county or district in which the sentence is pronounced, and the sentence may be pronounced in the absence of the person convicted.

Judge to sentence person convicted to proper punishment in addition to money penalty.

(11) Where a money penalty or penalties is or are imposed, the Judge or Judges, unless the prosecutor elects to recover the amount imposed by process sued out of the High Court, shall direct that in default of the amount being paid forthwith or within a time not exceeding one month, to be limited by the Judge or Judges, the person convicted shall be imprisoned for a period not exceeding one year, either with or without hard labour, in any gaol, or other place of confinement to be named by the Judge or Judges, unless the amount of the penalty or penalties shall be sooner paid; and in default of any place being named, the imprisonment shall be in the common gaol of the county or district in which such sentence is pronounced.

Imprisonment in default of payment of money penalty.

Authority of judge with respect to imprisonment.

(12) For the infliction of the imprisonment imposed, whether the imprisonment is in the first instance or is in default of payment of a penalty or penalties, the Judge or Judges shall have the like authority as a Court of Oyer and Terminer, or a Judge presiding thereat, has to give effect to the judgment of the Court, and the sheriff and gaoler shall obey all orders of the said Judge or Judges made in that behalf.

Prosecutor may recover penalty by same process as in case of an ordinary judgment.

(13) If the prosecutor elects to recover the amount imposed by process sued out of the High Court, the Judge or Judges shall make an order for payment forthwith without directing imprisonment in default, and the prosecutor may thereupon file the order or a duplicate thereof with the registrar of any of the Divisions of the High Court, and thereafter writs of execution may be issued thereon out of the High Court, and any other proceedings may be had or taken thereon, or in respect thereto, which might be had or taken upon, or in respect to, an ordinary judgment of the said High Court in the same Division.

Provision where penalty has been sued for before summons issued.

(14) In case within one month after the imposition under this section of any penalty it is made to appear that an action had been commenced for the recovery of such penalty before the issue of the summons, the Judge or either of the Judges who imposed the penalty under this Act may direct that a proportion of the amount recovered, after the full costs and disbursements of the prosecutor have been paid, shall be paid over to the plaintiff in the action, and in case the terms of the order are not obeyed the person in whose favour it was made, may, after one month from the date thereof, sue the prosecutor in any Court of competent jurisdiction for the amount to which the plaintiff is entitled, as for money received by the prosecutor for the use of the plaintiff. If, after an order has been made under this sub-section, it appears that the plaintiff in any other action is also entitled to apply hereunder, and if he so applies, the terms of the previous order may be varied as in view of such other application may seem just.

Costs.

(15) The Judge or Judges trying any charges under this section shall have power to direct by whom the costs of the prosecutor or person charged, or any part thereof, shall be paid, and where costs are payable by a person convicted, payment shall be enforced in the same manner as the payment of the penalty or penalties, and shall be included in the same order. Where costs are payable by a prosecutor, payment thereof may be enforced in the manner provided (in the case of a penalty) by sub-section 13 of this section.

Application of money penalties.

(16) All moneys received by a private prosecutor under this section shall belong one-half to the Crown and the other half to the prosecutor. 47 V. c. 4, s. 31.

PERSONS NOT TO BE EXCUSED FROM GIVING EVIDENCE ON
GROUND OF PRIVILEGE OR INCRIMINATION.

180. No person shall be excused from answering any question put to him in an action, or other proceeding in any Court, or before a Judge, touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of privilege, or on the ground that the answer to the question will tend to criminate such person; but no answer given by a person claiming to be excused on the ground of privilege, or on the ground that his answer will tend to criminate himself, shall be used in any proceeding against such person under any Act of the Legislature of Ontario, if the Judge gives to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the Judge. R. S. O. 1877, c. 10, s. 176.

Persons not excused from answering, etc., on the ground that answers may criminate.

OFFENCES AND PENALTIES.

181. If a Returning Officer, Deputy Returning Officer, or other person whose duty it is to deliver copies or have the custody of a certified list of voters wilfully makes any alteration, omission or insertion, or in any way wilfully falsifies such certified list or copy, every such person shall incur a penalty of \$2,000. R. S. O. 1877, c. 10, s. 177.

Returning Officers, etc., wilfully falsifying or altering list of voters to incur penalty.

182.—(1) No person shall

Offences.

- (a) Fraudulently deface or fraudulently destroy any ballot paper;
- (b) Without due authority supply any ballot paper to any person; or
- (c) Fraudulently put into a ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (d) Fraudulently take out of the polling place any ballot paper; or
- (e) Without due authority destroy, take, open, or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of the election.

(2) No person shall attempt to commit any offence specified in this section. Attempts.

(3) Every person guilty of any violation of this section shall be liable, if he is a Returning Officer, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour. R. S. O. 1877, c. 10, s. 178. Penalty.

Persons unlawfully destroying etc., documents relating to elections, etc.

183.—(1) If any person unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, a writ of election, or any return to a writ of election, or any voters' list, certificate or affidavit, or other document or paper made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them, he shall incur a penalty of \$2,000.

Abettors punishable as principals.

(2) Every person who aids, abets, counsels or procures the commission of any violation of this Act, as in this section mentioned, shall incur a penalty of \$2,000. R. S. O. 1877, c. 10, s. 179.

Neglect by D. R. O. or Poll Clerk of requirements of ss. 114, 115.

184. Every Deputy Returning Officer or Poll Clerk who refuses or neglects to perform any of the obligations or formalities required of him by sections 114 and 115 of this Act, shall, for each refusal or neglect, incur a penalty of \$200. R. S. O. 1877, c. 10, s. 180; 50 V. c. 8, Sched.

Deputy Returning Officer not subject to penalty for rejecting vote in good faith.

185. Where there is no voters' list, in case a Deputy Returning Officer rejects the vote of a person entitled to vote, if his rejecting the vote was in good faith and from believing, and having reasonable grounds for believing, that such person was not entitled to vote, the Deputy Returning Officer shall not be subject to any penalty. 47 V. c. 4, s. 20.

Money penalty for offences.

186. Every officer or clerk who is guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum of \$400. R. S. O. 1877, c. 10, s. 181.

187. Subject to the provisions of sections 178 and 179 :

How penalties under Act recoverable, and payment enforced.

1. All penalties imposed by this Act shall be recoverable with full costs of action, by any one who sues for the same in any of Her Majesty's Courts in this Province having competent jurisdiction; and in default of payment of the amount which the offender is condemned to pay, within the period to be fixed by the Court, the offender shall be imprisoned in the common gaol of the place until he has paid the amount which he has been so condemned to pay and the costs.

Statement of plaintiff's claim.

2. It shall be sufficient for the plaintiff, in any such action, to state in the statement of claim that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action is brought, and that the defendant had acted contrary to this Act, without mentioning the writ of election or the return thereof. R. S. O. 1877, c. 10, s. 182 (1, 2).

3. Every such action, shall be commenced within the space of one year next after the act committed, and not afterwards, and shall be tried by a Judge without a jury. R. S. O. 1877, c. 10, s. 182 (4); 47 V. c. 4. s. 38. Limitation of actions.

4. It shall not be necessary on the trial of any action or prosecution under this Act, to produce the writ of election or the return thereof, or the authority of the Returning Officer founded upon the writ of election, but general evidence of such facts shall be sufficient evidence. R. S. O. 1877, c. 10, s. 182 (3). Writ, etc., need not be produced at trial.

188. In an action for a penalty under this Act the plaintiff shall give security for the costs of the action if so required on behalf of the defendant. 47 V. c. 4, s. 40. Security for costs.

ELECTION EXPENSES OF CANDIDATES.

189. No payment (except in respect of the personal expenses of a candidate), and no advance, loan or deposit for the purposes of the election, shall be made by or on behalf of a candidate at an election, before, or during, or after the election, otherwise than through an agent or agents whose name and address, or names and addresses, has or have been declared in writing to the Returning Officer on or before the day of nomination; or through an agent or agents to be appointed in his or their place as herein provided; and no person shall make any such payment, advance, loan or deposit for the purposes of the election, otherwise than through such agent or agents. R. S. O. 1877, c. 10, s. 183. *See Section 51.* Payments, etc., by or on behalf of candidates except through named agents, forbidden.

190. In event of the death or legal incapacity of any agent appointed in pursuance of the preceding section, the candidate shall forthwith appoint another agent in his place, by giving notice to the Returning Officer of the name and address of the person so appointed, which shall in like manner be forthwith published by the Returning Officer at the expense of the candidate. R. S. O. 1877, c. 10, s. 184. On death or incapacity of an agent, appointment of another.

191.—(1) All persons who have any bills, charges or claims upon a candidate for or in respect of an election, shall send in such bills, charges or claims, within one month from the day of the declaration of the election, to such agent or agents as aforesaid, otherwise such persons shall be barred of their right to recover such claims and every or any part thereof. Claims on candidate in respect of any election, when to be sent in to agent.

(2) In case of the death within the said month of any person claiming the amount of such bill, charge or claim, the legal representative of such person shall send in such bill, charge or claim, within one month after obtaining probate, or letters of administration, as the case may be, or the right to recover such claim shall be barred as aforesaid. Case of death of person making claim.

(3) Such bills, charges and claims shall be sent in and delivered to the candidate, if, and so long as, during the said Case of death of agent.

month, there is, owing to death or legal incapacity, no agent.

Agent not to pay without authority of candidate.

(4) The agent shall not pay nor allow any bill, charge or claim without the authority of the candidate, as well as the approval of the agent. R. S. O. 1877, c. 10, s. 185.

A detailed statement of election expenses, etc., to be sent by agent to Returning Officers, who shall publish same.

192. A detailed statement of all election expenses incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall, within two months after the election (or in cases where, by reason of the death of the creditor, no bill has been sent in within such period of two months, then within one month after such bill has been sent in), be made out and signed by the agent, or, if there be more than one, by every agent who has paid the same (including the candidate in case of payments made by him), and delivered, with the bills and vouchers relative thereto, to the Returning Officer;

The Returning Officer for the time being shall, at the expense of the candidate, within fourteen days, insert or cause to be inserted an abstract of the statement, with the signature of the agent thereto, in some newspaper published or circulating in the Electoral District where the election was held;

Penalty.

Any agent or candidate who makes default in delivering to the Returning Officer the statement required by this section, shall incur a penalty not exceeding \$25 for every day during which he so makes default; and no agent or candidate shall wilfully furnish to the Returning Officer an untrue statement. R. S. O. 1877, c. 10, s. 186.

Returning Officer to preserve bills, etc., and allow inspection.

193. The Returning Officer shall preserve all such bills and vouchers, and shall during six months after they have been delivered to him permit any voter to inspect the same on payment of a fee of twenty-five cents. R. S. O. 1877, c. 10, s. 187.

FEES AND EXPENSES OF RETURNING OFFICERS, ETC.

Tariff of fees.

194. The fees in Schedule B to this Act mentioned, in respect of the several matters therein contained, and no others, shall be allowed to the several officers therein mentioned respectively, for the services and disbursements in the said schedule specified. R. S. O. 1877, c. 10, s. 188.

Payment of fees and expenses.

195. The said fees, allowances and disbursements, together with the reasonable expenses incurred by the Returning Officer, and by the other officers and clerks, for printing, providing polling compartments, transmission of the packets required by this Act to be transmitted, and reasonable fees and allowances for other services rendered under this Act, shall be paid over to the Returning Officer, by warrant of the Lieutenant-Governor, directed to the Treasurer of the Province, out of the Consolidated Revenue Fund of the Province, and shall be distributed by the Returning Officer to the several officers and persons

entitled to the same under the provisions of this Act, which distribution he shall report to the Lieutenant-Governor through the Provincial Secretary. R. S. O. 1877, c. 10, s. 189.

196. The Lieutenant-Governor may direct the payment to the Returning Officers of the Electoral Districts of Algoma West, Algoma East, Muskoka and Parry Sound, out of the Consolidated Revenue Fund, of such sums (over and above the allowance authorized by the preceding sections of this Act), as may be required to pay the expenses reasonably incurred by the Returning Officers, and by the other officers and clerks, in conducting the election, and reasonable fees and allowances for any extraordinary services rendered by them thereat. R.S.O. 1877, c. 10, s. 190; 48 V. c. 2, s. 12 (5).

Algoma, Muskoka and Parry Sound.

MISCELLANEOUS PROVISIONS.

197. The Clerk of the Legislative Assembly shall be *ex officio* Clerk of the Crown in Chancery, and shall be entitled as Clerk of the Legislative Assembly, to discharge all the duties which by any Statute, law, or usage ought to be done, or have heretofore been done, by the Clerk of the Crown in Chancery. 42 V. c. 4, s. 21.

Clerk of Legislative Assembly to be *ex-officio* Clerk of the Crown in Chancery.

198. The property in the ballot boxes, ballot papers, counterfoils, and marking instruments procured for or used at an election, shall be in Her Majesty. R. S. O. 1877, c. 10, s. 191.

Property in ballot boxes, papers, etc., to be in Her Majesty.

199. No person who, by section 4 of this Act, is disqualified and incompetent to vote, shall act as agent for a candidate at an election; and any person violating this enactment shall be subject to the same penalty as if he had voted at the said election. R. S. O. 1877, c. 10, s. 192.

Certain persons disqualified from acting as agents. Penalty.

200. A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act be authorized to attend. R. S. O. 1877, c. 10, s. 193.

Candidates may undertake duties of agent.

201. At an election, whether on the day of the opening, or at the polling places opened and kept for the election, in the absence of any person authorized in writing to act as agent for an absent candidate, any elector in the interest of such candidate may, at any time during the election, declare himself to be and may act as the agent of such candidate without producing a special authority in writing for that purpose. R. S. O. 1877, c. 10, s. 194.

Elector may act as agent of candidate.

202. Where in this Act expressions are used, requiring or authorizing any act or thing to be done, or inferring that any act or thing is to be done in the presence of the agents of the

Expressions referring to agents.

Non-attendance of agents.

candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended at the time and place where such act or thing is being done; and the non-attendance of any agent or agents at such time and place shall not, if the act or thing be otherwise duly done, invalidate in anywise the act or thing done. R. S. O. 1877, c. 10, s. 195.

Provision when election or polling not commenced or interrupted by reason of riot etc.

203. In case, by reason of riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced, and before the lawful closing thereof, the Returning Officer or Deputy Returning Officer, as the case may be, shall hold or resume the election or polling on the following day, at the hour of nine o'clock in the forenoon, and continue the same from day to day if necessary, until a fair opportunity for nominating candidates is given, or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all, or thereabouts, in order that all the electors so intending may have had a fair opportunity to vote. 47 V. c. 4, s. 42.

Non-judicial days.

204. In reckoning any period of time limited by any section of this Act, except section 24, Sunday and any day set apart by any act of lawful authority for a public holiday, fast or thanksgiving, shall be excluded; and where anything is required by any section of this Act to be done on a day which falls on any of such days, such thing may be done on the next judicial day. 46 V. c. 2, s. 13.

Election not to be void in certain cases for want of compliance with directions of Act, where result not affected.

205. No election shall be declared invalid by reason of any irregularity in any of the proceedings preliminary to the polling or by reason of a failure to hold a poll at any place appointed for holding a poll, or by reason of a non-compliance with the directions contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the Forms contained in Schedule A to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such failure, non-compliance or mistake did not affect the result of the election. R. S. O. 1877, c. 10, s. 197; 47 V. c. 4, s. 32; 50 V. c. 7, s. 3.

What shall be deemed a tender of a vote, and a voting.

206. Every person applying for a ballot paper under this Act shall be deemed to tender his vote, or to offer or assume to vote; and any person shall be deemed to have voted who has put his ballot paper into the ballot box, or has caused the same to be put into the ballot box, or has delivered the same to the Deputy Returning Officer or Poll Clerk, for the purpose of having the same placed in the ballot box. R. S. O. 1877, c. 10, s. 198.

207. The Returning Officer shall have power to administer any of the oaths, affirmations, or take any of the declarations required with respect to the election; and any Deputy Returning Officer or Election Clerk may administer such oaths, affirmations, or take such declarations, except in cases where they are required to be administered to the Returning Officer. Administration of oaths, etc. R. S. O. 1877, c. 10, s. 199; 47 V. c. 4, s. 41.

208. Every person before whom it is hereby required that an oath be taken, or an affirmation made in the manner herein provided, shall administer such oath or affirmation gratuitously. No charge for oaths, etc. R. S. O. 1877, c. 10, s. 200.

209. There shall be transmitted to every Returning Officer with the writ of election, such a number of copies of this Act, and of any Acts amending the same, as will be sufficient to supply the Returning Officer and each of his Deputies at the election with one copy at least; and every copy shall be accompanied with a copious alphabetical index. Transmission to Returning Officers of copies of this Act. R. S. O. 1877, c. 10, s. 201.

[As to Inquiries into matters connected with elections and attempts to corrupt members of the Legislative Assembly, see "The Act respecting Inquiries concerning Public Matters."]

SCHEDULE A.

FORM 1.

(Referred to in Section 29.)

PROCLAMATION OF THE RETURNING OFFICER DECLARING THE TIME AND PLACE FIXED FOR THE OPENING OF THE ELECTION, AND ALSO THE DAY FOR OPENING THE POLL.

PROCLAMATION.

County (Riding, City, Town or other Electoral District, as the case may be) of _____, to wit:

Public Notice is hereby given to the Electors of the County (or as the case may be) of _____ that in obedience to Her Majesty's Writ to me directed, and bearing date the _____ day of the month of _____, I require the presence of the said Electors _____, in the County (or Township, or City or Town) of _____ (here describe the place distinctly, whether the election be for a County, or for any other Electoral District) on the

day of the month of _____, at _____ o'clock in the noon, for the purpose of electing a person (or persons, *as the case may be*) to represent them in the Legislative Assembly of this Province; and that in case a poll be demanded and allowed in the manner by law prescribed, such poll will be opened on the _____ day of the month of _____, in the year _____, in each of the Townships, Wards, or Polling Subdivisions in which a polling place is to be opened and kept according to law, of which due notice will be given on the Day of Nomination. Of all which every person is hereby required to take notice, and to govern himself accordingly.

Given under my hand at _____, this _____ day of the month of _____, in the year 18 ____.

(Signature) _____ A. B.
Returning Officer.
R. S. O. 1877, c. 10, Form 1.

FORM 2.

(Referred to in Section 41.)

OATH OF THE RETURNING OFFICER.

I, the undersigned A. B., Returning Officer for the County or Riding (or as the case may be) of _____, solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I am legally qualified according to law to act as Returning Officer for the said County (or Riding, *as the case may be*) of _____ and that I will act faithfully in that capacity, without partiality, fear, favour or affection: So help me God.

(Signature) _____ A. B.,
Returning Officer.
R. S. O. 1877, c. 10, Form 2.

FORM 3.

(Referred to in Section 41.)

CERTIFICATE OF THE RETURNING OFFICER HAVING TAKEN THE OATH OF OFFICE.

I, the undersigned, hereby certify that on the _____ day of the month of _____, 18 ____, A. B., the Returning Officer for the County (or as the case may be) of _____, took and subscribed before me the oath (or affirmation) of office in such case required of a Returning Officer by section 41 of *The Ontario Election Act*.

In testimony whereof, I have delivered to him this Certificate.

(Signature) _____ C. D.,
Justice of the Peace.
R. S. O. 1877, c. 10, Form 3.

FORM 4.

(Referred to in Section 42.)

COMMISSION OF AN ELECTION CLERK.

To E. F. (Set forth his legal addition and residence.)

Know you, that in my capacity of Returning Officer for the County (or as the case may be) of _____, I have appointed and do hereby appoint you to be my Election Clerk, to act in that capacity ac-

cording to law at the approaching election for the said County (*or as the case may be*) of _____, which election will be opened
by me on the _____ day of the month of _____, 18____.

Given under my hand this _____ day of the month of _____,
in the year 18____.

(Signature) A. B.,
Returning Officer.
R. S. O. 1877, c. 10, Form 4.

FORM 5.

(Referred to in Section 43.)

OATH OF THE ELECTION CLERK.

I, the undersigned E. F., appointed Election Clerk for the County (*or as the case may be*) of _____, solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully in my said capacity of Election Clerk, and also in that of Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection : So help me God.

(Signature) E. F.,
Election Clerk.
R. S. O. 1877, c. 10, Form 5.

FORM 6.

(Referred to in Section 43.)

CERTIFICATE OF THE ELECTION CLERK HAVING TAKEN THE OATH OF OFFICE.

I, the undersigned, hereby certify that on the _____ day of the month of _____, 18____, E. F., Election Clerk for the County (*or as the case may be*) of _____, took and subscribed before me the oath (*or affirmation*) of office required in such case of an Election Clerk by section 43 of *The Ontario Election Act*.

In testimony whereof, I have delivered to him this certificate under my hand.

(Signature) C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.
R. S. O. 1877, c. 10, Form 6.

FORM 7.

(Referred to in Section 47.)

PROCLAMATION WHICH THE RETURNING OFFICER IS TO CAUSE TO BE READ AT THE HUSTINGS, ON THE DAY OF THE OPENING OF THE ELECTION.

OYEZ. OYEZ. OYEZ.

All persons are commanded and strictly enjoined to keep silence while Her Majesty's Writ for the present Election is publicly read, under the pains and penalties in such case provided.

R. S. O. 1877, c. 10, Form 7.

FORM 9.

(Referred to in Section 58.)

COMMISSION OF DEPUTY RETURNING OFFICER.

To *G. H.* (Insert his residence and legal addition.)

Know you that, in my capacity of Returning Officer for the Electoral District of _____, I have appointed and do hereby appoint you to be Deputy Returning Officer for the _____ Polling Subdivision of the Township (or as the case may be) of _____ in the said Electoral District, there to take the votes of the electors according to law, at the polling place to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll of such election for the said _____ Polling Subdivision of the said Township (or as the case may be) of _____ on the _____ day of _____ A. D. 18____, at nine o'clock in the forenoon, at (here describe particularly the place in which the poll is to be held), and there to keep the said poll open during the hours prescribed by law, and to do and perform in such polling place all acts and duties required to be performed by the Deputy Returning Officer appointed to act therefor, and to return to me on or before the _____ day of _____ A. D. 18____, together with this commission, the several packets and documents required to be returned to me in the manner prescribed by sections 110, 111, and 112 of *The Ontario Election Act*.

Given under my hand at the _____ of _____ in the County of _____ (or as the case may be) of _____ this _____ day of _____ A. D. 18____.

(Signed) _____ *A. B.*,
Returning Officer.
R. S. O. 1877, c. 10, Form 9.

FORM 10.

(Referred to in Section 59.)

OATH OF DEPUTY RETURNING OFFICER.

I, the undersigned *G. H.*, appointed Deputy Returning Officer for the _____ Polling Subdivision of the Township (or as the case may be) of _____, in the County (or as the case may be) of _____, solemnly swear (or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully, in my said capacity of Deputy Returning Officer, without partiality, fear, favour or affection: So help me God.

(Signature) _____ *G. H.*,
Deputy Returning Officer.
R. S. O. 1877, c. 10, Form 10.

FORM 11.

(Referred to in Section 59.)

CERTIFICATE OF DEPUTY RETURNING OFFICER HAVING TAKEN THE OATH OF OFFICE.

I, the undersigned, hereby certify that on the _____ day of the month of _____, *G. H.*, Deputy Returning Officer for the _____

Polling Subdivision of the Township (or as the case may be)
of _____, in the County (or as the case may be) of _____,
took and subscribed the oath (or affirmation) of office required in such case
of a Deputy Returning Officer by section 59 of *The Ontario Election Act*.

In testimony whereof I have delivered to him this Certificate under my
hand.

(Signature)

C. D.,
Justice of the Peace.

or A. B.,
Returning Officer.
R. S. O. 1877, c. 10, Form 11.

FORM 12.

(Referred to in Section 63.)

FORM OF BALLOT PAPER.

(Front.)

Election for the County of _____ (or as the case may be)	1	DOE. (John Doe, Township of Southwold, County of Elgin, Yeoman.)
Counterfoil, No.	2	ROE. (Richard Roe, of Town of Goderich, County of Huron, Merchant.)
No. _____ on Voters' List.	3	STILES. (Geoffrey Stiles, of 52 Talbot Street, London, Physician.)
<i>Note—The Counter- foil is to have a number to correspond with that on the back of the Ballot Paper.</i>	4	STILES. (John Stiles, of 31 Gros- venor Street, Toronto, Barrister-at-Law.

(Back.)

No. _____

Election for the County of _____
(or as the case may be).
18 _____

FORM 13.

(Referred to in Sections 68 and 98.)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter is to vote for one candidate. (1)

The voter is to go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of the candidate for whom he votes, thus X.

The voter is then to fold up the ballot paper so as to shew the name or initials of the Deputy Returning Officer signed on the back, and leaving the compartment shall, without shewing the front of the paper to any person, deliver such ballot so folded to the Deputy Returning Officer, and forthwith quit the polling place.


If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more than one candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer, he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

(1) *In contested elections for the Electoral District of the City of Toronto where there are more vacancies than one the voter may vote for two candidates but no more.*

In the following form of Ballot Paper given for illustration, the Candidates are JOHN DOE, RICHARD ROE, GEOFFREY STILES, and JOHN STILES, and the voter has marked his ballot paper in favour of RICHARD ROE.

	1	DOE. (John Doe, Township of Southwold, County of Elgin, Yeoman.)	
	2	ROE. (Richard Roe, of Town of Goderich, County of Huron, Merchant.)	X
	3	STILES. (Geoffrey Stiles, of 52 Talbot Street, London, Physician.)	
	4	STILES. (John Stiles, of 31 Grosvenor Street, Toronto, Barrister-at-Law.)	

R. S. O. 1877, c. 10, Form 13.

FORM 14.

(Referred to in Section 70.)

CERTIFICATE OF CLERK AS TO DATES OF RETURN AND FINAL REVISION
OF THE ASSESSMENT ROLL.

Election to the Legislative Assembly for the Electoral District of
18

I, A. B., Clerk of the Municipality of _____, in the
County of _____, do hereby certify that the Assessment
Roll for this Township (*or as the case may be*), of
upon which the Voters' List to be used at this election is based, was
returned to me by the Assessor for said Township (*or as the case may be*),
on the _____ day of _____ 18 ,
and that the same was finally revised and corrected on the
day of _____ 18 .

Dated this _____ day of _____ 18 .

A. B.,

Clerk.

R. S. O. 1877, c. 10, Form 14.

FORM 15.

(Referred to in Sections 80, 83 and 84.)

COMMISSION OF A POLL CLERK.

To I. J. (*Insert his legal addition and residence.*)

Know you, that in my capacity of Deputy Returning Officer for the
Polling Subdivision of the Township (*or as the case may be*)
of _____, in the County (*or as the case may be*) of _____
, I have appointed and do hereby appoint you to be
Poll Clerk for the said _____ Polling Subdivision of the said
Township (*or as the case may be*) of _____

Given under my hand, at _____ this _____ day of
the month of _____, in the year 18 .

(Signature.)

G. H.,

Deputy Returning Officer.

R. S. O. 1877, c. 10, Form 15.

FORM 16.

(Referred to in Section 80.)

OATH OF A POLL CLERK.

I, the undersigned, I. J., appointed Poll Clerk for the _____ Poll-
ing Subdivision of the Township (*or as the case may be*) of _____
, in the County (*or as the case may be*) of _____, do solemnly
swear (*or, if he be one of the persons permitted by law to affirm in civil cases,*

do solemnly affirm) that I will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection : So help me God.

(Signature) I. J.,
Poll Clerk.

R. S. O. 1877, c. 10, Form 16.

FORM 17.

(Referred to in Section 80.)

CERTIFICATE OF THE POLL CLERK HAVING TAKEN THE OATH.

I, the undersigned, hereby certify, that on the _____ day of _____ the month of _____, I. J., Poll Clerk for the _____ Polling Subdivision of the Township (or as the case may be) of _____, in the County (or as the case may be) of _____, took and subscribed before me the oath (or affirmation) of office required of a Poll Clerk in such cases by section 80 of *The Ontario Election Act*.

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature) C. D.,
Justice of the Peace.
or A. B.,
Returning Officer.
or G. H.,
Deputy Returning Officer.

R. S. O. 1877, c. 10, Form 17.

FORM 18.

(Referred to in Section 91.)

FORM OF OATH OF PERSON VOTING AS OWNER, TENANT OR OCCUPANT OF REAL ESTATE, OR AS A HOUSEHOLDER.

You swear (1) that you are the person named or purporting to be named by the name of _____ on the list of voters now shewn to you ; (2) That on the (3) _____ day of _____ 18 _____, you were actually, truly and in good faith possessed to your own use and benefit, as either owner, tenant or occupant, in your own right or in the right of your wife, of the real estate in respect of which your name is as aforesaid entered on the said list of voters, and are as such entitled to vote at this election ;

That you are actually and in good faith a resident of and domiciled within this electoral district ; (4)

That you are of the full age of twenty-one years ;

That you are a subject of Her Majesty either by birth or by naturalization ;

That you have not voted before at this election, either at this or any other polling place ;

That you have not received anything, nor has anything been promised you either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not directly, or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting, at this election.

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm.*"

(2) The Deputy Returning Officer should hereupon shew the voters' list to the voter.

(3) The date to be here inserted in administering the oath is AT THE CHOICE OF THE VOTER, to be EITHER the day certified by the Clerk of the Municipality to be the date of the RETURN by the Assessor of the assessment roll upon which the voters' list used at the election is based; or the day so certified to be the date when by law the said roll was to be considered and taken as FINALLY REVISED.

(4) Where the voter is a HOUSEHOLDER add "and have resided therein continuously since the completion of the last revised assessment roll of this Municipality."

(3). See s. 7 "*Fourthly.*"

NOTE.—In the oath administered to a Deputy Returning Officer, poll clerk or agent VOTING UPON A CERTIFICATE issued under Sec. 87, for "*on the list of voters now shewn to you,*" substitute "*on the list of voters for the Municipality of*," naming the municipality mentioned in the certificate.

48 V. c. 2, Sched., Form 18; 50 V. c. 8, Sched.

FORM 19.

(Referred to in Section 91.)

ORDINARY FORM OF OATH OF PERSON VOTING IN RESPECT OF INCOME, OR AS A WAGE-EARNER.

You *swear* (1) that you are the person named or purporting to be named by the name of _____ on the list of voters now shewn to you; (2)

That on the (3) _____ day of _____ 18____, you were, and thenceforward have been continuously and still are a resident of the territory included in this electoral district, and are entitled to vote at this election.

That at the said date, and for twelve months previously, you were from your trade, occupation, office, calling or profession, in receipt of an income or wages amounting to a sum not less than \$250; (4).

That you are of the full age of twenty one years;

That you are a subject of Her Majesty either by birth or by naturalization;

That you have not voted before at this election, either at this or any other polling place;

That you have not received anything, nor has anything been promised to you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith;

And that you have not directly, or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting at this election.

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm.*"

(2) The Deputy Returning Officer should hereupon shew the voters' list to the voter.

(3) The date to be here inserted in administering the oath, is the day certified by the clerk of the municipality to be the DATE OF THE FINAL REVISION and correction of the assessment roll upon which the voters' list used at the election is based for the municipality.

(4) If the municipality in which the voter is voting is a Township, there must be added at the end of this clause of the oath the words following:—"Estimating as part of said income or wages the fair value of any board or lodging had, given to, or received by me during the said twelve months as or in lieu of wages."

NOTE.—In the oath administered to a Deputy Returning Officer, poll clerk or agent VOTING UPON A CERTIFICATE issued under sec. 87, for "*on the list of voters now shewn to you,*" substitute "*on the list of voters for the municipality of*," naming the municipality mentioned in the certificate.

49 V. c. 3, s. 4 & Sched.; 50 V. c. 7, s. 31.

FORM 20.

(Referred to in Section 91.)

FORM OF OATH FOR A LANDHOLDER'S SON.

You *swear* (1) that you are the person named or purporting to be named by the name of _____ on the list of voters now shewn to you ; (2)

That on the (3) _____ day of _____ 18 ____ , A. B. (4) was, as you verily believe actually, truly, and in good faith possessed to *his* (5) own use as owner, tenant or occupant of the property in respect of which your name is so as aforesaid entered on the said voters' list, and was then actually and in good faith residing and domiciled upon said property ;

That you are a *son* (6) of the said A. B. ; (4)

That you resided within this municipality with the said A. B., for and during the whole of the twelve months next before the return by the assessor of the assessment roll on which the voters' list used at this election is based, not having been absent during that period, except temporarily and not more than six months in all, and except and save for and during such further time (if any) as was spent by you either in the occupation of a mariner or fisherman, or as a student of some institution of learning situate within this Province ;

That you are still a resident of this Electoral District, and are entitled to vote at this election ;

That you are of the full age of twenty-one years ;

That you are a subject of Her Majesty either by birth or by naturalization ;

That you have not voted before at this election, either at this or any other polling place ;

That you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not directly, or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting, at this election.

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm.*"

(2) The Deputy Returning Officer should hereupon shew the voters' list to the voter.

(3) The date to be here inserted in administering the oath is the day certified by the clerk of the municipality to be the date of the RETURN by the assessor of the assessment roll upon which the voters' list used at the election is based.

(4) The name of the voter's father, or step-father, or mother, or step-mother should be inserted here.

(5) If the name of the voter's mother is inserted, then for "*his*" substitute "*her.*"

(6) If the voter is voting as a "*stepson,*" or "*grandson,*" or "*son in-law,*" then for the word "*son*" substitute the word "*stepson,*" or "*grandson,*" or "*son in-law*" as the case may be.

NOTE.—In the oath administered to a Deputy Returning Officer, poll-clerk, or agent VOTING UPON A CERTIFICATE issued under Sec. 87, for "*on the list of voters now shewn to you,*" substitute "*on the list of voters for the Municipality of _____,*" naming the municipality mentioned in the certificate.

FORM 21.

(Referred to in Section 91.)

FORM OF OATH TO BE TAKEN BY VOTER ON A SUPPLEMENTARY LIST OF VOTERS, MADE WHERE ADDITIONS HAVE BEEN MADE TO A CITY, TOWN OR VILLAGE, OR A NEW VILLAGE HAS BEEN FORMED COMPOSED OF TERRITORY SITUATED IN TWO OR MORE ELECTORAL DISTRICTS.

You *swear* (1) that you are the person named or purporting to be named by the name of _____ on the supplementary list of voters now shewn to you ; (2)

That on the (3) _____ day of _____ 18 _____, you were actually, truly and in good faith possessed to your own use and benefit as owner, tenant or occupant, in your own right or in the right of your wife, of the real estate in respect of which your name is entered on the said supplementary list of voters, and are as such entitled to vote at this election ;

That you are actually and in good faith a resident of and domiciled within this Electoral District ;

That you are of the full age of twenty-one years ;

That you are a subject of Her Majesty either by birth or by naturalization ;

That you have not voted before at this election, either at this or any other polling place ;

That you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting at this election.

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm*."

(2) The Deputy Returning Officer should hereupon shew the voters' list to the voter.

(3) The date to be here inserted in administering the oath is AT THE CHOICE OF THE VOTER to be EITHER the day certified by the Clerk of the Municipality to be the date of the RETURN by the Assessor of the assessment roll upon which the voters' list used at the election is based ; or the day so certified to be the date when by law the said roll was to be considered and taken as FINALLY REVISED.

NOTE.—In the oath administered to a Deputy Returning Officer, poll clerk or agent, VOTING UPON A CERTIFICATE issued under Sec. 87, for "*on the list of voters now shewn to you*" substitute "*on the list of voters for the Municipality of _____*," naming the municipality mentioned in the certificate.

48 V. c. 2, Sched., Form 21.

FORM 22.

(Referred to in Section 77.)

FORM OF OATH TO BE TAKEN IN MUNICIPALITIES IN ALGOMA, MUSKOKA AND PARRY SOUND, WHERE THERE IS A VOTERS' LIST.

By persons who vote as resident householders, but are entered in the list as owners or freeholders.

You *swear* (1) that you are the person named, or purporting to be named by the name of _____ on the list of voters now shewn to you. (2)

That you are actually, truly and in good faith a resident householder of this electoral district, in respect of the property for which you are assessed in this municipality as owner (*or* freeholder), and for which you are entered as such in the list of voters now shewn to you ;

That you are now, and have been continuously for the six months immediately preceding this date, actually, truly, and in good faith, a resident within the territory included in this electoral district ;

That you are of the full age of twenty-one years ;

That you are a subject of Her Majesty, either by birth or by naturalization ;

That you have not voted before at this election, either at this or any other polling-place ;

That you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

And that you have not, directly or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting, at this election.

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm*."

(2) The Deputy Returning Officer should hereupon shew the voters' list to the voter.

47 V. c. 4, First Sched ; 50 V. c. 7, s. 27.

FORM 23.

(*Referred to in Section 92.*)

FORM OF THE OATH TO BE TAKEN BY VOTERS IN ALGOMA, MUSKOKA AND PARRY SOUND, WHERE THERE IS NO ASSESSMENT ROLL OR VOTERS' LIST.

Resident Owner's Oath.

You *swear* (1) that you are *A. B.* (2); and that you have not voted before at this election, either at this or any other polling place;

That you are actually, truly, and in good faith, possessed to your own use, as owner, of the land in respect of which your name has now on your information been entered on the Deputy Returning Officer's list; that you have been such owner of the said property for the six months next preceding this election; that the said land has been patented, and is of the value of at least \$200 ;

That you are now, and have been continuously for six months immediately preceding this date, actually, truly, and in good faith a resident within the territory included in this Electoral District;

That you are entitled to vote at this election in respect of the said property;

That this, to the best of your belief, is the polling place nearest to the said property;

That you are of the full age of twenty-one years;

That you are a subject of Her Majesty, either by birth or by naturalization;

That you have not received anything, nor has anything been promised you either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith;

And that you have not directly or indirectly paid or promised anything to any person, to induce him either to vote or to refrain from voting at this election :

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm.*"

(2) Insert here the name of the voter.

47 V. c. 4, Second Sched ; 50 V. c. 7, s. 28.

FORM 24.

(Referred to in Section 92.)

Resident Householder's Oath.

You *swear* (1) That you are *A. B.* (2), and that you have not voted before at this election, either at this or any other polling place;

That you are actually, truly, and in good faith, a resident householder in the said district, in respect of the property which has now on your information been entered on the Deputy Returning Officer's list as the property on which you vote ;

That you are now, and have been continuously for the six months immediately preceding this date, actually, truly, and in good faith, a resident householder of this Electoral District; (*or of the territory included in this Electoral District as the case may be*);

That you are entitled to vote at this election in respect of the said property;

That this, to the best of your belief, is the polling place nearest to the said property;

That you are of the full age of twenty-one years;

That you are a subject of Her Majesty, either by birth or by naturalization;

That you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith;

And that you have not directly or indirectly paid or promised anything to any person to induce him either to vote or to refrain from voting at this election:

So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "*swear*" substitute "*solemnly affirm.*"

(2) Insert here the name of the voter.

47 V. c. 4, Second Sched.

FORM 25.

(Referred to in Section 7 *sixthly* (b).)

INDIAN'S OATH.

Where there is not a voters' list, if a candidate or his agent alleges that the voter is an Indian, one or other of the following oaths is to be administered to such voter, the voter having the right to select which.

"You *swear* that you do not participate in the annuities, interests, moneys, or rents of any tribe, band or body of Indians, and do not reside among Indians."

or

"You *swear* that you are not an Indian, nor a person with part Indian blood."

The oaths required of other voters are to be taken as in other cases, if required.

47 V. c. 4, Third Sched.

FORM 26.

(Referred to in Section 101.)

FORM OF DECLARATION OF INABILITY TO READ.

I, *A. B.*, of _____, being numbered _____ on the voters' list for Polling Subdivision No. _____, in the Electoral District of _____, do hereby declare that I am unable to read (*or that I am from physical incapacity unable to mark a ballot paper, as the case may be.*)

A. B. (His X mark.)

The _____ day of _____, A. D. 18 _____
R. S. O. 1877, c. 10, Form 23.

FORM 27.

(Referred to in Section 101.)

FORM OF ATTESTATION CLAUSE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF INABILITY TO READ.

I, the undersigned, being the Deputy Returning Officer for Polling Subdivision No. _____ for the Electoral District of _____ do hereby certify that the above (*or as the case may be*) declaration, having been first read to the above named *A. B.*, was signed by him in my presence with his mark.

(Signed) *C. D.*,
Deputy Returning Officer for Polling
Subdivision No. _____, in the Electoral
District of _____.

Dated this _____ day of _____, A. D. 18 _____
R. S. O. 1877, c. 10, Form 24.

FORM 28

(Referred to in Section 103.)

FORM OF OATH OF VOTER WHOSE NAME IS NOT ON THE VOTERS' LIST.

You swear (*or solemnly affirm*) that you believe that your name ought to have been entered upon the voters' list to be used for the Polling Subdivision of the Township (*or as the case may be*) of _____ in the Electoral District of _____, at the present election, and that your name has been improperly omitted from such voters' list.
(*Add the statements necessary for voter's oath in other cases.*)

R. S. O. 1877, c. 10, Form 25.

FORM 29.

*(Referred to in Sections 110 and 114.)*OATH OF THE DEPUTY RETURNING OFFICER AFTER THE CLOSING
OF THE POLL.

I, the undersigned, Deputy Returning Officer for the
Polling Subdivision of the Township (or as the case may be), of
in the Electoral District of , do solemnly swear (or if he be a
person by law permitted to affirm in civil cases, do solemnly affirm) that to
the best of my knowledge the annexed voters' list used in and for the said
Polling Subdivision of the said Township (or as the case may
be), was so used under my direction in the manner prescribed by law, and
that the entries required by law to be made therein were correctly made.

(Signed) C. D.,
Deputy-Returning Officer.

Sworn (or affirmed) and subscribed before me at ,
this day of , A.D. 18 .
(Signed) X. Y.,
Justice of the Peace.
Or A. B.,
Returning Officer.

NOTE.—The foregoing oath is to be annexed to the voters' list used at the
election.

R. S. O. 1877, c. 10, Form 26.

FORM 30.

(Referred to in Sections 110 and 115.)

OATH OF THE POLL CLERK AFTER THE CLOSING OF THE POLL.

I, the undersigned, Poll Clerk for the Polling Subdivision
of the Township (or as the case may be), of , in the Electoral District
of , do solemnly swear (or if he be a person permitted by law
to affirm in civil cases, do solemnly affirm) that the annexed voters' list used
in and for the said Polling Subdivision of the said Township (or as the
case may be), under the direction of C. D., who has acted as Deputy Re-
turning Officer for such Polling Subdivision, has been so used by me
under his direction as aforesaid, and that the entries required by law to
be made therein have been so made by me correctly and to the best of my
skill and judgment.

(Signed) E. F.,
Poll Clerk, this

Sworn (or affirmed) and subscribed before me at
day of , A.D. 18 .
(Signed) X. Y.,
Justice of the Peace.
(Signed) A. B.,
Returning Officer.
(Signed) C. D.,
Deputy Returning Officer.

NOTE.—The foregoing oath is to be annexed to the voters' list used at the
election.

R. S. O. 1877, c. 10, Form 27.

FORM 31.

(Referred to in Section 149.)

FORM OF STATUTORY DECLARATION OF SECRECY.

I solemnly promise and declare that I will not at this election for the Electoral District of _____ *(as the case may be)* do anything forbidden by section 148 of *The Ontario Election Act*, which section has been read to me.

(Signed) A. B.,
Returning Officer.
(or as the case may be.)

NOTE.—Section 148 must be read to the declarant by the person taking the declaration.

R. S. O. 1877, c. 10, Form 28.

SCHEDULE B.

FEES OF RETURNING OFFICERS, ETC.

*(Referred to in Section 194.)**Returning Officers—Rural Electoral Districts.*

1. Drawing Proclamation..... *one dollar.*
2. Paid printing fifty copies..... *actual cost.*
3. Mileage on posting same, for each mile necessarily travelled from place to place, to be taxed as Sheriff's mileage on summoning jurors..... *ten cents per mile.*
4. Holding election and making return (if no contest), including appointment and swearing of Election Clerk *ten dollars.*
5. Election Clerk, one day..... *two dollars.*
6. Two constables, one day (each) *one dollar.*

And the following additional charges in contested cases :

7. Appointing Deputies, and swearing them (each)..... *fifty cents.*
8. Furnishing copies of voters' lists, when necessary *as allowed by Rev. Stat. c. 8, s. 44.*
9. Mileage to deliver same to Deputies, when necessary ; only one mileage for both, to be taxed as above, per mile *ten cents.*
10. Making up and transmitting returns to the Clerk of the Crown in Chancery (including duplicates to each candidate, and all other necessary services connected therewith)..... *ten dollars.*

11. For services under sections 125 and 126, such amount as the Lieutenant-Governor may think reasonable under the circumstances of the case.

12. Postage.....*amount actually paid out.*

13. Pay of Election Clerk, one day.....*two dollars.*

14. Mileage of Returning Officer, and Election Clerk, going to and returning from the election on nomination day (each).....*ten cents for every mile necessarily travelled.*

Deputy Returning Officers.

15. Taking the polls, including all the services connected therewith, and making returns.....*four dollars.*

16. Paid Poll Clerk, one day.....*two dollars.*

17. And one constable, one day*one dollar*

18. For each polling booth, *actual cost, not exceeding four dollars*, to be paid by the Township Treasurer, on the order of the Deputy Returning Officer, unless the Township Council provide suitable polling places at their own expense.

In Cities and Towns.

19. To Returning Officers, in cities and towns, holding election and making returns, when no contest (exclusive of actual charge for printing)*ten dollars.*

20. When election contested (exclusive of actual charge for printing)....
.....*twenty dollars.*

21. To Deputy Returning Officers, Election clerks, Poll Clerks and Constables, the same charge as at rural elections; and the like charge paid in the same manner, for polling booths, as in rural polling places.

R. S. O. 1877, c. 10, Sched. B.

CHAPTER 10.

An Act respecting Controverted Elections of Members of the Legislative Assembly.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

“The Court,” s. 2 (1).

“Member,” s. 2 (2).

“Election,” s. 2 (3).

“District,” s. 2 (4).

“Candidate,” s. 2 (5).

“Corrupt practices,” s. 2, (6).

“Rules of Court,” s. 2 (7).

“Prescribed,” s. 2, (8).

“The Speaker,” s. 2 (9).

PRESENTATION OF PETITIONS.

By whom, ss. 3-7.

Form of petition, s. 8.

When and how presented, ss. 9, 10.

Petition and particulars to be verified, s. 11.

Copy to be sent to Returning Officer and published by him, s. 12.

SECURITY FOR COSTS, ss. 13, 14.

PETITION TO BE SERVED, s. 15.

LIST OF PETITIONS, s. 16.

PRELIMINARY EXAMINATION OF PARTIES, ss. 17-26.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title. 1. This Act may be cited as "*The Ontario Controverted Elections Act*." R. S. O. 1877, c. 11, s. 1.
- Interpretation. 2. Where the words following occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears.
- "The Court." 1. "The Court" shall for the purposes of this Act mean the Court of Appeal; and such Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with reference to an election petition and the proceedings thereon as the High Court of Justice would have if such petition were an ordinary action within the jurisdiction of that Court, and the practice and proceedings, including the mode of enforcing decisions as to costs and otherwise, shall in all respects be the same as at present until altered by the Court of Appeal, as provided by this Act.
- Practice as heretofore, till varied. 2. "Member" shall mean a member of the Legislative Assembly.
- "Member." 3. "Election" shall mean an election of a member to serve in the Legislative Assembly.
- "Election." 4. "District" shall mean an Electoral District returning a member. R. S. O. 1877, c. 11, s. 2 (1-4).
- "District." 5. "Candidate at an Election" and "Candidate" respectively mean any person elected at an election to serve in the Legislative Assembly, and any person who is nominated as a candidate at an election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for an election, or after the dissolution or vacancy in consequence of which the writ has been issued; provided that where a person has been nominated as a candidate, or declared to be a candidate by others, then—
- "Candidate," and saving for persons nominated without consent. (a) If he was so nominated or declared without his consent, nothing in this Act shall be construed to impose any liability on such person, unless he has afterwards given his assent to such nomination or declaration or has been elected. 47 V. c. 4, s. 43. See cap. 9, s. 2 (16).
- "Corrupt practices" and "corrupt practice." 6. "Corrupt practices," or "corrupt practice," shall mean bribery, treating and undue influence, or any of such offences, as defined by this or any Act of the Legislature, or recognized by the Common Law of the Parliament of England; also any violation of sections 153, 157 or 159 of *The Ontario Election Act*; and any violation of section 161 of the last mentioned Act during the hours appointed for polling.
- Furnishing entertainment. Hiring Vehicles. Personation. Selling liquor. 7. "Rules of Court" shall mean Rules to be made as mentioned in sections 109 and 110 of this Act.
- "Rules of Court."

8. "Prescribed" shall mean prescribed by the Rules of "Prescribed." Court.

9. "The Speaker" shall mean the Speaker of the Legislative Assembly, or, when the office of Speaker is vacant, the Clerk of the Legislative Assembly, or any other officer for the time being performing the duties of the Clerk of the Legislative Assembly. R. S. O. 1877, c. 11, s. 2 (6-9).

PRESENTATION OF PETITION.

3. A petition complaining of the undue return or undue election of a member, may be presented to the Court by any one or more of the following persons: By whom an election petition may be presented;

(a) Some person who voted, or who had a right to vote, at the election to which the petition relates; or by voters,

(b) Some person claiming to have had a right to be returned or elected at such election; or by persons claiming to be elected,

(c) Some person alleging himself to have been a candidate at such election; by candidates,

and such petition is hereinafter referred to as an election petition. R. S. O. 1877, c. 11, s. 3.

4. Two or more candidates may be made respondents to the same petition, and their case may, for the sake of convenience, be tried at the same time; but for all the purposes of this Act, such petition shall be deemed to be a separate petition against each respondent. R. S. O. 1877, c. 11, s. 4. Joint respondents to petition.

5. Where an election petition under this Act complains of the conduct of a Returning Officer, the Returning Officer shall, for all the purposes of this Act, except the admission of respondents in his place, be deemed to be a respondent. R. S. O. 1877, c. 11, s. 5. Petition complaining of a Returning Officer.

6. A petition under this Act complaining of no return may be presented to the Court, and shall be deemed to be an election petition within the meaning of this Act, and the Court may make such order thereon as it thinks expedient for compelling a return to be made, or may allow such petition to be tried by the Judge in manner hereinbefore provided with respect to ordinary election petitions. R. S. O. 1877, c. 11, s. 6. Petition complaining of no return.

7. In case a petition is presented against the return of a member, the respondent or any other person authorized by law to present an election petition, may, within fifteen days after the service of the petition against the return, file a petition complaining of any unlawful and corrupt act by any candidate at the same election who was not returned, whether the seat is or is not claimed by him or on his behalf, and the trial of such After petition against return any one authorized to petition may petition on account of corrupt acts by candidate not returned.

petition shall take place at the same time as the trial of the petition against such member or respondent, or at such other time as may be appointed. R. S. O. 1877, c. 11, s. 7.

Form of petition, and by whom to be signed.

8. A petition under this Act shall be in such form, and state such matters as may be prescribed, and shall be signed by the petitioner, or all the petitioners if there are more than one. R. S. O. 1877, c. 11, s. 8.

Petition when to be presented.

9. The petition shall be presented within twenty-one days after the return has been made to the Clerk of the Crown in Chancery of the member to whose election the petition relates, unless it questions the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act of bribery to have been committed by the member or on his account, or with his privity, since the time of the return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment or acts committed. R. S. O. 1877, c. 11, s. 9.

Presentation of petition.

10. Presentation of a petition shall be made by delivering it to the Registrar of the Court, or otherwise dealing with the same in manner prescribed. R. S. O. 1877, c. 11, s. 10.

Petition and particulars to be verified on oath.

11. With every election petition shall be filed an affidavit by the petitioners, referring to or annexed to the petition, and stating that the deponents present the petition in good faith, and have reason to believe and do believe the statements contained in the petition to be true in substance and in fact; all particulars afterwards furnished by either party shall be verified in like manner on oath by the persons furnishing the same, or one of them. R. S. O. 1877, c. 11, s. 11.

Copy of petition to be sent to Returning Officer, who shall publish the same.

12. On presentation of the petition, the Registrar of the Court shall send a copy thereof by mail to the Returning Officer of the Electoral District to which the petition relates, who shall forthwith publish the same in the District. R. S. O. 1877, c. 11, s. 12.

SECURITY FOR COSTS.

Security for costs.

13. At the time of the presentation of the petition, or within three days afterwards, security shall be given on behalf of the petitioner for the payment of all costs, charges and expenses that may become payable by the petitioner;

(a) To every person summoned as a witness on his behalf; or

(b) To the member whose election or return is complained of (who is hereafter referred to as the respondent.) R. S. O. 1877, c. 11, s. 13.

14.—(1) The security shall be by a deposit of \$1,000, in one of the banks in which Government money is then being deposited; the deposit shall be made to the credit of the election petition, with the privity of the Accountant of the Supreme Court. R. S. O. 1877, c. 11, s. 14.

Security to be by deposit of \$1,000.

(2) Subject to any Rules of Court all moneys required to be paid into or out of the said Court under any order, judgment, statute, rule of Court, or otherwise, shall be paid in and paid out in like manner as moneys are paid into and out of Court in actions pending in the High Court. 48 V. c. 13, s. 20.

SERVICE.

15. Notice of the presentation of a petition under this Act accompanied with a copy of the petition, shall, within five days after the day on which security for costs is given, or within such longer time as the Court may, under special circumstances of difficulty in effecting service allow, be served by the petitioner on the respondent, as nearly as may be in the manner in which a writ of summons is served, or in such other manner as may be prescribed. R. S. O. 1877, c. 11, s. 15.

Serving petition on respondent.

LIST OF PETITIONS.

16.—(1) The Registrar of the Court shall, as soon as may be make out a list of all petitions presented under this Act, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of the list, hereinafter referred to as the election list, open to the inspection of any person making application; and the petitions, as far as conveniently may be, shall be tried in the order in which they stand in the list.

Registrar to make out list of petitions at issue.

Order in which petitions shall be tried.

(2) When more petitions than one are presented relating to the same election or return, all such petitions shall in the election list be bracketed together, and shall be dealt with as far as may be as one petition; but the petitions shall stand on the election list in the place where the last of the petitions would have stood if it had been the only petition presented, unless the Court otherwise directs. R. S. O. 1877, c. 11, s. 16.

Several petitions relating to same election, how placed on election list.

PRELIMINARY EXAMINATION OF PARTIES, AND PRODUCTION OF DOCUMENTS.

17. Every party to an election petition, whether petitioner or respondent, may at any time after the petition is at issue, be examined by or before an examiner, in the manner hereinafter directed, by a party adverse in point of interest, touching any matter raised by the petition; and any party so examined may be further examined on his own behalf, in relation to any matter respecting which he has been examined in chief; and

When and how parties to petitions may be examined.

Proviso.

when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party examined: but the explanatory examination must be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the Court or a Judge. R. S. O. 1877, c. 11, s. 17.

Candidates for a seat may be examined.

18. Where a petition has been filed claiming a seat for a candidate, such candidate, although not a party to the petition, may be orally examined as if he were a petitioner. R. S. O. 1877, c. 11, s. 18.

How examination of parties shall be had.

19. Any party to be examined orally, under the provisions of this Act, shall be so examined by or before a County Court Judge, or before a Registrar appointed under this Act, or before a Master or Special Examiner of the High Court, or (by consent of the parties) before a Barrister-at-law specially named in the order for examination; and the examination shall take place in the presence of the parties, their counsel, agents or solicitors; and the party so examined orally shall be subject to cross-examination and re-examination; and the examination, cross-examination and re-examination shall be conducted as nearly as may be in the mode now in use in the High Court on the trial of an action. R. S. O. 1877, c. 11, s. 19.

Depositions how taken down.

20.—(1) The depositions taken upon an oral examination as aforesaid shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative; and when completed shall be read over to the witness, and signed by him, in the presence of the parties, or of such of them as may think fit to attend.

(2) In case the witness refuses or is unable to sign the said depositions, then the examiner shall sign the same; and the examiner may, upon every examination, state any special matter to the Court if he thinks fit.

(3) It shall be in the discretion of the examiner to put down any particular question or answer, if there should appear to be any special reason for so doing; and any question or questions objected to shall, at the request of either party, be noticed or referred to by the Examiner in or upon the depositions; and he shall state his opinion thereon to the counsel, agents, solicitors, or parties; and if requested by either party, he shall refer to such statement on the face of the depositions. R. S. O. 1877, c. 11, s. 20.

Depositions to be filed.

21. When the examination before the examiner is concluded, the original depositions, authenticated by the signature of the Examiner, shall be transmitted by him to the office of the Court, to be there filed; and any party to the peti-

tion may have a copy thereof, or of any part or portion thereof, upon payment for the same in such manner as may be prescribed by the Court in that behalf. R. S. O. 1877, c. 11, s. 21.

22. The attendance of a party or other person for oral examination or cross-examination before the examiner, may be required by writ of *subpœna ad testificandum* or *duces tecum*, in like manner as such party or person would be required to attend at the trial of the petition, and any party or person, upon being served with the writ, shall be bound to attend before the examiner; but such party or person shall be entitled to the like payment for attendance and expenses, as if he had been subpœnaed to attend upon the trial. R. S. O. 1877, c. 11, s. 22.

Compelling attendance of witnesses.

23. The sheriff, gaoler or other officer having the custody of any prisoner, may take such prisoner for examination before the examiner, under the authority of this Act, if so ordered by the Court or a Judge. R. S. O. 1877, c. 11, s. 23.

Attendance of witnesses being prisoners.

24. Forty-eight hours' notice of an oral examination or cross-examination shall be given to the opposite party or parties. R. S. O. 1877, c. 11, s. 24.

Notice of examination.

25. Every party or person who refuses or neglects to attend at the time and place appointed for his examination or cross-examination, or refuses to be sworn or to answer any lawful question put to him by the examiner, or by any party entitled so to do, or his counsel, agent, or solicitor, may be punished as for a contempt of Court; but if a witness demurs or objects to any question or questions put to him, the question or questions so put, and the demurrer or objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the office of the Court, to be there filed; and the validity of the demurrer or objection shall be decided by the Court or a Judge; and the costs of and occasioned by the demurrer or objection shall be in the discretion of the Court or Judge. R. S. O. 1877, c. 11, s. 25.

Penalty for non-attendance or refusal of witness to answer.

Demurrer to questions.

26. Every party to a petition shall be entitled to use, upon the trial of a petition, depositions taken by or before the examiner, in accordance with the provisions of this Act; but where such party uses any portion of a deposition so taken, it shall be competent for the party against whom it is used to put in the entire evidence so taken, as well that in chief as that in explanation. R. S. O. 1877, c. 11, s. 26.

Depositions may be used on trial.

27.—(1) Every party to an election petition, whether petitioner or respondent, may, at any time after such petition is at issue, obtain an order of course upon præcipe requiring the adverse party to produce within ten days after the service thereof, under oath, all documents in his custody or power

Production, inspection, and copies of documents.

relating to the matters in question, saving all just exceptions, and to deposit the said documents with the Registrar of the Court; and upon the documents being produced, the party requiring their production and his agent or solicitor may inspect the same and take examined copies thereof.

(2) When a person upon whom an order to produce has been served wishes to avail himself of any such exception as above mentioned, he must in his affidavit on production assign a sufficient reason why he should not produce and deposit the same in manner aforesaid. R. S. O. 1877, c. 11, ss. 27, 28; 44 V. c. 5, Rule 222.

Service of
order.

28. An order for the production of documents shall not require personal service, and it shall be sufficient to serve the same upon the agent or solicitor of the party. R. S. O. 1877, c. 11, s. 29.

Affidavit on
production.

29. The affidavit on production to be made by the party who has been served with the order for production, may be in the form or to the effect set forth in Schedule A to this Act. R. S. O. 1877, c. 11, s. 30.

Penalty for
disobeying
order.

30. Every party neglecting or refusing to obey an order for the production of documents may be punished as for a contempt. R. S. O. 1877, c. 11, s. 31.

TRIAL OF PETITIONS.

Trial to be
before Judges
selected from
the *rota*.

31. The trial of every election petition shall be conducted before a Judge or two Judges selected from a *rota* to be formed as hereinafter mentioned. R. S. O. 1877, c. 11, s. 32.

Rota of Judges
for election
petitions.

32. The Judges to be placed on the *rota* for the trial of election petitions shall be selected from the Judges of the Supreme Court in such manner as may be provided by Rules of Court to be made for that purpose; and in the meantime; and subject thereto, shall be selected, as hitherto, that is to say: the members of the Court of Appeal, and of the Queen's Bench, Chancery and Common Pleas Divisions of the High Court respectively, shall, on or before the third day of Michaelmas Sittings in every year, select by a majority of votes of the members of such Court or Division, one of the Judges thereof to be placed on the *rota* during the ensuing year. R. S. O. 1877, c. 11, s. 33; 44 V. c. 5, s. 27.

Judge re-
eligible.

33. Any Judge placed on the *rota* shall be re-eligible in the succeeding or any subsequent year. R. S. O. 1877, c. 11, s. 34.

Filling up va-
cancies on the
rota.

34. In the event of the death or illness of a Judge for the time being on the *rota*, or his inability to act for any reasonable cause, the Court of Appeal, when he is a member of that

Court, or the Division of the High Court of which he is a member, as the case may be, shall fill up the vacancy by placing on the *rota* another Judge of the Court or Division aforesaid. R. S. O. 1877, c. 11, s. 35; 49 V. c. 16, s. 6.

35. The Judges for the time being on the *rota* shall, according to their seniority, respectively try the election petitions standing for trial under this Act, unless they otherwise agree among themselves, in which case the trial of each election petition shall be taken in manner provided by such agreement. R. S. O. 1877, c. 11, s. 36.

Manner in which trials shall be taken by the Judges.

36. Where it appears to the Judges on the *rota*, after due consideration of the list of petitions under this Act for the time being at issue, that the trial of election petitions will be inconveniently delayed unless an additional Judge or additional Judges be appointed to assist the Judges on the *rota*, the Court of Appeal, and the Queen's Bench, Chancery and Common Pleas Divisions of the High Court in the order named, shall, on the requisition of the Judges on the *rota*, and to the number of the additional Judges required, select, in manner hereinbefore provided, one of the Judges of such Court or Division to try election petitions for the ensuing year; and any Judge so selected shall, during that year, be deemed to be on the *rota* for the trial of election petitions. R. S. O. 1877, c. 11, s. 37.

When the number of Judges on the *rota* may be increased.

37. Allegations of corrupt practices against a candidate or his agents shall be tried by two of the Judges on the *rota* sitting together (hereinafter referred to as the Judges); and no candidate shall be unseated for corrupt practice, nor shall any person be declared guilty of a corrupt practice, or disqualified except upon the decision of the two Judges jointly, or of the Court of Appeal. R. S. O. 1877, c. 11, s. 38; 47 V. c. 4, s. 33.

Allegations of corrupt practices to be tried by two Judges.

38. Every petition shall, except as aforesaid, and except where the petition raises a question of law for the determination of the Court, as herein mentioned, be tried by one of the Judges on the *rota* (hereinafter referred to as the Judge), sitting in open Court, without a jury. R. S. O. 1877, c. 11, s. 39.

Judge to try petitions without a jury.

39. The trial of an election petition shall take place in the Electoral District, the election or return for which is in question, unless it appears to the Court that special circumstances exist which render it desirable that the petition should be tried elsewhere than in the District, in which case it shall be lawful for the Court to appoint such other place for the trial as appears most convenient. R. S. O. 1877, c. 11, s. 40.

Place of trial.

40. Notice of the time and place at which an election petition will be tried, shall be given not less than fourteen days before the day on which the trial is to take place, in the prescribed manner. R. S. O. 1877, c. 11, s. 41.

Notice of trial.

Reception
and atten-
dance on the
Judge.

41. The Judge or Judges shall be received and attended at the place where he or they is or are about to try an election petition under this Act, in the same manner, so far as circumstances will admit, as a Judge of the High Court is received and attended at a sitting of the High Court for the trial of actions in a County town, and the expenses of such attendance shall be deemed to be part of the expenses of providing a Court. R. S. O. 1877, c. 11, s. 42.

Powers of the
Judge.

42. On the trial of an election petition under this Act, the Judge or Judges shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as Judges of the High Court, and the Court held by him or them shall be a Court of Record. R. S. O. 1877, c. 11, s. 43.

Judge may
adjourn the
trial.

43. The Judge or Judges at the trial may adjourn the same from time to time, and from any one place to any other place within the District, as to him or them may seem expedient. R. S. O. 1877, c. 11, s. 44.

Certain cir-
cumstances
not to stay
trial.

44. The trial of an election petition under this Act shall be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or his resignation of the seat, and notwithstanding the prorogation of the Legislative Assembly. R. S. O. 1877, c. 11, s. 45.

Application to
change peti-
tioner when
delay in fixing
day for trial.

45. Where three months elapse after the presentation of a petition, without the day for the trial being fixed, any elector may, on application, be substituted for the petitioner on such terms as may be just. R. S. O. 1877, c. 11, s. 46.

Trial,
when to be
commenced
and proceeded
with.

46.—(1) Subject to the provisions of the next succeeding section, the trial of every election petition shall be commenced within six months from the time when the petition was presented, and so far as is practicable consistently with the interests of justice in respect of such trial, shall be continued *de die in diem* on every lawful day until its conclusion; unless on application supported by affidavit it is shewn that the requirements of justice render it necessary that a postponement of the case should take place. R. S. O. 1877, c. 11, s. 47; 47 V. c. 4, s. 7, *part*.

Continuation
of trial of elec-
tion petition.

(2) In case the *rota* of Judges for the year shall expire before the conclusion of the trial, or of all the proceedings in relation or incidental to the petition, the authority of the said Judges shall continue for the purpose of the said trial and proceedings. 47 V. c. 4, s. 7, *part*.

When trial
shall not be
held etc., dur-
ing a session
or fifteen days
thereafter.

47. In case the member elect is entitled to take his seat, the trial of the election petition shall not, without his consent, be held during a Session of the Legislative Assembly, or within fifteen days after the close of a Session; and in the computation of any delay allowed for any step or proceeding in respect

of the trial, or for the commencement of the trial under the next preceding section, the time occupied by the Session shall not be reckoned. R. S. O. 1877, c. 11, s. 48.

Evidence.

48. Unless the Judges trying a petition otherwise direct, any charge of a corrupt practice may be gone into, and evidence in relation thereto received, before any proof has been given of agency on the part of any candidate in respect of such corrupt practice. R. S. O. 1877, c. 11, s. 49.

When evidence of corrupt practice may be received.

49. On the trial of a petition under this Act, complaining of an undue return, and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if he had presented a petition complaining of such election. R. S. O. 1877, c. 11, s. 50.

Evidence on trial complaining of undue return, and claiming seat.

Witnesses.

50. Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as on the trial of an action in the High Court. R. S. O. 1877, c. 11, s. 51.

Witness, how subpoenaed and sworn.

51. On the trial of an election petition under this Act the Judge or Judges may, by order under his or their hand or hands, compel the attendance of any person as a witness who appears to him or them to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of Court. The Judge or Judges may examine any witness so compelled to attend or any person in Court, although such witness is not called and examined by a party to the petition. After the examination of a witness as aforesaid by the Judge or Judges, the witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them. R. S. O. 1877, c. 11, s. 52.

Judge may order attendance of witnesses.

Examination of such witnesses.

52. No person shall be excused from answering any question put to him in a trial under this Act, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by a person claiming to be excused on the ground of privilege, or on the ground that the answer will tend to criminate himself, shall be used in any proceeding against such person under any Act of the Legislature of Ontario, if the Judge or Judges give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the Judge or Judges. R. S. O. 1877, c. 11, s. 53.

Persons not excused from answering on the ground of privilege.

53. The reasonable expenses incurred by a person in appearing to give evidence at the trial of an election petition

Expenses of witnesses.

under this Act, according to the scale allowed to witnesses on the trial of civil actions at the Assizes, may be allowed to such person by a certificate, under the hand of a Judge or of the Registrar of the Court, and such expenses, if the witness was called and examined by a Judge, shall be deemed to be part of the expenses of providing a Court, and in other cases shall be deemed to be costs of the party calling the witness. R. S. O. 1877, c. 11, s. 54.

JUDGES' REPORTS AND CERTIFICATES.

Judge to determine the issue and certify result to the Speaker.

54. The Judge or Judges trying the petition shall determine whether the member whose election or return is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall certify, in writing, such determination to the Speaker, and upon such certificate being given, such determination shall be final to all intents and purposes, subject only to the appeal hereinafter mentioned. R. S. O. 1877, c. 11, s. 55; 46 V. c. 2, s. 11.

Disagreement between Judges who tried the case.

55.—(1) In case of disagreement between the Judges before whom a case is tried, they shall certify such disagreement, and either party may thereupon bring the matter before the Court of Appeal, and that Court shall, in disposing thereof, have the same jurisdiction in all respects as on an appeal from a decision of such Judges; and therein may determine all questions of law or fact which the Judges disagreeing might or should have determined, and in the same manner as in the opinion of the Court of Appeal the disagreeing Judges should have done; and in such case the Registrar of the Court of Appeal shall thereupon certify to the Speaker, or if there is no Speaker, to the Clerk of the House, the judgment and decision of the Court upon the case, in the same manner, and to the same effect, as according to the judgment and decision of the Court of Appeal, the Trial Judges should have done. R. S. O. 1877, c. 11, s. 57; 48 V. c. 2, s. 15 (1).

(2) Or, instead of determining all questions of law or fact, the Court of Appeal may refer the case back to the Trial Judges, with such declarations and directions as the Court of Appeal may think fit; and the Trial Judges shall thereupon dispose of the case (including costs) in accordance with, and so as to give effect to such declarations and directions, and the Trial Judges shall certify to the Speaker or Clerk as the case may require. 48 V. c. 2, s. 15 (2).

Report to be made by both Judges.

56.—(1) In case of a trial before two Judges, every certificate and every report sent to the Speaker shall be under the hands of both Judges.

(2) If the Judges differ as to whether the member whose return or election is complained of was duly returned or

elected, they shall certify that difference, and the member shall, subject to appeal, be deemed to be duly elected or returned.

(3) If the Judges determine that a member was not duly elected or returned, but differ as to the rest of the determination, they shall certify that difference, and the election shall, subject to appeal, be deemed to be void.

(4) If the Judges differ as to the subject of a report to the Speaker, they shall certify that difference, and make no report on the subject on which they so differ.

(5) If the Judges differ as to any matter on which under sections 163 and 165 of *The Ontario Election Act*, or otherwise, any disqualification, disability or liability to a penalty depends, they shall certify such difference, and the candidate shall not be disqualified or subject to a disability or penalty.

(6) There shall be no appeal from a decision of the Judges finding that a candidate or other person has not been guilty of corrupt practices, or finding in favour of a candidate any of the matters of defence mentioned in section 165 of *The Ontario Election Act*. 47 V. c. 4, s. 10.

57. In case of a disagreement between the Judges, as mentioned in section 55 of this Act, and any party is entitled to the opinion of the Court of Appeal with respect to the matter of the disagreement, such party, if he desires such opinion, shall be required to make within eight days from the day on which the said disagreement was announced or certified, the same deposit by way of security for costs, and the proceedings in the matter shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Judges. 47 V. c. 4, s. 11.

Proceedings on appeal in case of disagreement between Judges

58. Where a charge is made in an election petition of a corrupt practice having been committed at the election to which the petition refers, the Judges shall, in addition to the certificate, and at the same time, report in writing to the Speaker as follows:—

Report of Judges where charge is made of corrupt practices.

(a) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any and which candidate at the election, and the nature of such corrupt practice;

(b) The names of any persons who have been proved, at the trial, to have been guilty of any corrupt practice;

(c) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates. R. S. O. 1877, c. 11, s. 58.

59. The Judge or Judges may in his or their report make a special report to the Speaker as to any matters arising in the

Special report.

course of the trial, an account of which, in his or their judgment, ought to be submitted to the Legislative Assembly. R. S. O. 1877, c. 11, s. 59.

Speaker to communicate report to the Legislative Assembly.

Proceedings thereupon.

60. The Speaker shall, at the earliest practicable moment after he receives the certificate, and report or reports (if any), of the Court, Judge or Judges, communicate the same to the Legislative Assembly, and the Legislative Assembly shall forthwith thereafter order the same to be entered on its Journals, and give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as circumstances may require. R. S. O. 1877, c. 11, s. 60.

Order of Legislative Assembly upon special report.

61. Where the Judge or Judges make a special report, the Legislative Assembly may make such order in respect of such special report as they think proper. R. S. O. 1877, c. 11, s. 61.

If election held void member returned not to sit pending appeal.

62. In case the Judge or Judges trying an election shall decide that the election or return was void, the member returned shall not be entitled to take his seat or vote in the Legislative Assembly pending an appeal from the decision. 47 V. c. 4, s. 8.

Writ not to issue pending appeal.

63. In case a decision of the Judge or Judges declaring an election or return to be void is appealed from, a writ for a new election shall not be issued for eight days after the decision is given, and if an appeal is meantime brought from the part of the decision which declares the election or return to be void, the writ shall not issue pending the appeal. 47 V. c. 4, s. 9.

SPECIAL CASES.

When Court may order a special case.

64. When upon the application of a party to a petition, duly made to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct the same to be stated accordingly, and such special case shall be, as far as may be, heard before the Court, and the decision of the Court shall be final, and the Court shall certify to the Speaker its determination in reference to such special case. R. S. O. 1877, c. 11, s. 62.

APPEALS.

Appeal: security for costs ;

setting down for hearing ;

65. Any party to an election petition under this Act who is dissatisfied with the decision of the Judge or Judges on any question of law or of fact, and desires to appeal against the same, may within eight days from the day on which the decision was given deposit with the Registrar of the Court the sum of \$100 by way of security for costs ; and thereupon the Registrar shall set the matter of the petition down for hearing before the Court at an early day to be appointed by the Court, or a Judge thereof. R. S. O. 1877, c. 11, s. 63.

66. The party so appealing shall thereupon within three days after the security for costs has been given or such further time as the Court or a Judge thereof may upon application allow, give to the other parties affected by the appeal, or the respective solicitors or agents by whom such parties were represented on the trial of the petition, notice in writing that the matter of the petition has been so set down to be heard in appeal as aforesaid; and in and by the same notice the party so appealing as aforesaid may, if he desires, limit the subject of the appeal to any special and defined question or questions. R. S. O. 1877, c. 11, s. 64; 47 V. c. 4, s. 34. notice of setting down;

67. The appeal shall thereupon be heard and determined by the Court; and such judgment shall be pronounced, both upon questions of law and of fact, as in the opinion of the Court should have been delivered by the Judge or Judges whose decision is appealed against. R. S. O. 1877, c. 11, s. 65. hearing; judgment.

68. Upon appeals, in cases on or involving questions of fact, the Court shall review the decision upon questions of fact as well as of law, and shall draw such inference from the facts or evidence as the Judge or Judges who tried the case should have drawn. R. S. O. 1877, c. 11, s. 66. Court to review decision upon facts as well as law.

69. The Court shall have all the powers and duties as to amendment and otherwise of the Judge or Judges from whom the appeal is had, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in Court, by affidavit or by deposition taken before any Judge or other person whom the Court may name. R. S. O. 1877, c. 11, s. 67. Powers of Court as to amendments and evidence.

70. Where a decision, heretofore given or hereafter to be given, by the Judge or Judges depends in whole or in part upon the credit given by him or them to particular witnesses, and the decision is appealed against, the Judge or Judges may make a written report as to the demeanour of the principal witnesses and their mode of giving their evidence, together with the reasons of such Judge or Judges for giving credit to the particular witnesses; and, with or without such a report, the Court, in view of the whole case as it then appears, may reverse or confirm the decision appealed against; or the Court may require any witnesses to be re-examined, and further evidence to be given, orally, before the Court or otherwise, upon any question of fact; and after such re-examination and further evidence, the Court shall pronounce the proper judgment in the case. R. S. O. 1877, c. 11, s. 68. Judges may report upon demeanour of witnesses. Re-examination of witnesses.

71. The Court may make such order as to the return of the said deposit and as to the costs of the said appeal as the Court may think just. R. S. O. 1877, c. 11, s. 69. Costs.

Registrar
to certify
judgment
to the Speaker.

72. The Registrar of the Court shall thereupon certify to the Speaker, or, if there is no Speaker, to the Clerk of the House the judgment and decision of the Court upon the several questions and matters of fact, as well as of law, upon which the Judge or Judges whose decision is appealed against might otherwise have determined or certified in the same manner as the Judge or Judges whose decision is appealed against would otherwise have done; and the judgment or decision shall be final to all intents and purposes. R. S. O. 1877, c. 11, s. 70.

New trial

73. Instead of certifying as aforesaid, the Court, upon such conditions as to costs and otherwise as the Court may think fit, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case back to the Judge or Judges who tried the same, or to some other Judge or Judges upon the *rota*; and, subject to the directions given by the Court of Appeal, the case shall be thereafter proceeded with as if there had been no appeal. R. S. O. 1877, c. 11, s. 71.

SCRUTINY.

On scrutiny
Judge may ap-
point day and
place.

74. Where, in consequence of an election petition being presented, it becomes necessary to enter into a scrutiny of the votes polled at the election brought in question by the petition, the Judge may make provision for holding in every local Municipality in the Electoral District, the election for which is questioned, a scrutiny of the votes polled in such Municipality, in case of there being any votes therein which are objected to; and for this purpose may by order appoint a day and place within the Municipality, or each of the Municipalities respectively, as the case may be, for entering into the scrutiny. Such scrutiny may be before, on, or after the day appointed for the trial of the petition. R. S. O. 1877, c. 11, s. 72.

Notice of time
and place of
scrutiny.

75. Notice of the time and place for entering into the scrutiny shall be given not less than fourteen days before the day appointed for entering into the same. R. S. O. 1877, c. 11, s. 73.

Scrutiny be-
fore the Judge,
or his
delegate.

76. The scrutiny may be before the Judge, or the Judge may appoint his Registrar, or a Barrister competent for the purpose, to act in his stead. R. S. O. 1877, c. 11, s. 74.

Jurisdiction
and powers of
the Judge
when the
scrutiny is be-
fore him in
person.

77. Where the scrutiny is entered into before the Judge in person, the provisions of law as to the jurisdiction of the Judge upon the trial of an election petition in the ordinary manner, shall apply, as nearly as may be, to the proceedings upon the scrutiny, and the Judge shall possess the like powers and authority, as to all matters arising upon the scrutiny, as are possessed by him upon a trial in the ordinary manner. R. S. O. 1877, c. 11, s. 75.

78. Where the scrutiny is before a Registrar or Barrister, the Registrar or Barrister shall, except as hereinafter provided, have the same powers and authority for the time being in all matters connected with the scrutiny and for conducting the same, as the Judge himself would have if personally present and acting. Powers of Judge's delegate on scrutiny before him. R. S. O. 1877, c. 11, s. 76.

79. It shall be the duty of the Registrar or Barrister acting under an appointment made, as aforesaid, to take down in writing the evidence given before him upon the scrutiny. Delegate of Judge to take evidence in writing. R. S. O. 1877, c. 11, s. 77.

80. At or before the conclusion of the scrutiny in each Municipality, the Registrar, or Barrister so acting as aforesaid, shall either decide the questions of law and fact raised before him, or shall reserve the same, or any of them, for the decision of the Judge at the trial; and shall make a note in writing of every such decision or reservation, as the case may be, for the information of the Judge; and shall publicly announce such decision or reservation for the information of the public and the parties interested. Delegate may decide or reserve questions of law or fact. R. S. O. 1877, c. 11, s. 78.

81. If any party is dissatisfied with any decision of the Registrar, or Barrister so acting as aforesaid, he may object thereto before the Judge at the trial to be had as aforesaid: provided, that within eight days from the conclusion of the scrutiny he gives notice in the manner hereinafter mentioned to the opposite party of his intention to so object; and the Judge may, in his discretion, refuse at the trial before him to consider any points not raised before the Registrar, or Barrister so acting as aforesaid, for his decision; and in case the Judge does consider the same, and allows the appeal on a ground not distinctly taken before the Registrar, or Barrister so acting as aforesaid, the Judge may order the appellant, though successful, to pay the costs of and incidental to the appeal. Appeal from decision of delegate. R. S. O. 1877, c. 11, s. 79.

82. The party intending to object shall within eight days deliver in person, or by his solicitor or agent, to the Registrar, a written notice of his intention to object; and he shall also in person, or by his solicitor or agent, serve a like notice upon the opposite party, his solicitor or agent, within eight days from the conclusion of the scrutiny. Notice of appeal, time for and service. R. S. O. 1877, c. 11, s. 80.

83. The notice shall mention the grounds of objection, and may be in the form of Schedule B to this Act or to the like effect. Notice of appeal, form of. R. S. O. 1877, c. 11, s. 81.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

84. An election petition under this Act shall not be withdrawn without the leave of the Court or a Judge upon special application, to be made in and at the prescribed manner, time and place. Withdrawal of petitions. R. S. O. 1877, c. 11, s. 82.

Notice of
withdrawal.

85. No such application shall be made until the prescribed notice has been given in the Electoral District to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of his petition. R. S. O. 1877, c. 11, s. 83.

Substitution
of new peti-
tioner.

86.—(1) On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or a Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

Order as to
security where
withdrawal is
induced by
corrupt barg-
gain.

(2) The Court or Judge may, if it or he thinks fit, substitute as a petitioner any such applicant as aforesaid; and may further, if the proposed withdrawal is, in the opinion of the Court or Judge, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in the security the original petitioner shall be liable to pay the costs of the substituted petitioner. R. S. O. 1877, c. 11, s. 84.

Security to be
given by sub-
stituted peti-
tioner.

87. If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution. R. S. O. 1877, c. 11, s. 85.

Liabilities of
substituted
petitioner.

88. Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner. R. S. O. 1877, c. 11, s. 86.

Costs.

89. If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent, unless the Court otherwise orders. R. S. O. 1877, c. 11, s. 87.

All petitioners
must join in
withdrawal.

90. Where there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners. R. S. O. 1877, c. 11, s. 88.

Court to re-
port whether
withdrawal
was the result
of a corrupt
arrangement,
etc.

91. In every case of the withdrawal of an election petition under this Act, the Court or Judge shall report to the Speaker whether in its or his opinion the withdrawal of the petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, and if so, the circumstances attending the withdrawal. R. S. O. 1877, c. 11, s. 89.

Abatement of
petition by
death.

92. An election petition under this Act shall be abated by the death of a sole petitioner, or of the survivor of several petitioners. R. S. O. 1877, c. 11, s. 90.

93. The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred. Costs.
R. S. O. 1877, c. 11, s. 91.

94. On the abatement of a petition the prescribed notice of the abatement having taken place shall be given in the Electoral District to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court or a Judge, in and at the prescribed manner, time and place, to be substituted as a petitioner. Notice of abatement to be given.
R. S. O. 1877, c. 11, s. 92.

95. The Court or Judge may if it or he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition. Substitution of new petitioner.
R. S. O., 1877, c. 11, s. 93.

96. In case a petitioner in an election petition shall not be qualified to be a petitioner, the petition shall not, on that account, be dismissed, if within such time as the Court or Judge shall allow for that purpose another petitioner be substituted, which substitution may take place on such terms and conditions as to the Court or Judge may seem meet. Substitution of petitioner where petitioner not qualified.
47 V. c. 4, s. 6.

97. If before or during the trial of an election petition under this Act, any of the following events happen in the case of the respondent (that is to say): On death of respondent,

(a) If he dies;

(b) If the Legislative Assembly has resolved that his seat is vacant; vacation of seat, or

(c) If he gives in and at the prescribed manner and time, notice to the Court or Judge that he does not intend to oppose, or further to oppose the petition, withdrawal from opposition, and notice thereof,

notice of such event having taken place shall be given in the Electoral District to which the petition relates, and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge to be admitted as a respondent to oppose the petition, or so much thereof as may remain undisposed of, and such person may on such application be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent; and any number of persons, not exceeding three, may be so admitted; and if either of such events happens during the trial, the Judge or Judges shall adjourn the trial in order that notice, as herein provided, that such event has happened, may be given. others admitted as respondents.
R. S. O. 1877, c. 11, s. 94.

Respondent not opposing petition not to appear as a party or sit in the Legislative Assembly.

98. A respondent who has given the prescribed notice that he does not intend to oppose or further oppose the petition, shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and shall not sit or vote in the Legislative Assembly until the Legislative Assembly has been informed of the report on the petition; and the Court or Judge shall, in all cases in which such notice has been given in the prescribed time and manner, report the same to the Speaker. R. S. O. 1877, c. 11, s. 95.

Cases of double return, where the respondent declines to defend.

99. Where an election petition under this Act complains of a double return, and the respondent has given notice in the prescribed way that it is not his intention to oppose the petition, and no party has been admitted, in pursuance of this Act, to oppose the petition, then the petitioner, if there be no petition complaining of the other member returned on such double return, may withdraw his petition by notice addressed to the prescribed officer; and upon the receipt of the notice, the prescribed officer shall report the fact of the withdrawal of the petition to the Speaker; and the Legislative Assembly shall thereupon give such necessary directions for amending the said double return, as the case may require. R. S. O. 1877, c. 11, s. 96.

COSTS.

Costs of petition.

100. All costs, charges and expenses of and incidental to the presentation of a petition under this Act, and to the proceedings consequent thereon, with the exception of such costs, charges and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the Court or Judge may determine, regard being had to the disallowance of any costs, charges or expenses which may, in the opinion of the Court or Judge have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or the respondent, and regard being had to the discouragement of needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful. R. S. O. 1877, c. 11, s. 97.

When agent made to pay costs.

101.—(1) In case, on the trial of an election petition, it is proved that any corrupt practice has been committed by an agent of a candidate, without the knowledge or consent of the candidate, and that costs should be awarded to the petitioner or other party alleging the corrupt practice, the agent may be condemned to pay such costs.

Summons to agent.

(2) In such case the Court or Judges shall order that such agent be summoned to appear at a time fixed in the summons in order that it may be determined whether he should be condemned to pay such costs.

(3) If at any time so fixed the agent does not appear, he shall be condemned on the evidence already adduced to pay the whole or a due proportion of the costs awarded to the petitioner or other party aforesaid. If agent does not appear.

(4) If the agent appears, the Court or Judges, after hearing the parties and such evidence as is adduced, shall give such judgment as to law and justice appertains. If agent appears.

(5) The party to receive the costs shall have process to recover such costs against the agent in like manner as he might have such process against the principal; and no process shall issue against the principal to recover such costs, nor shall the sum be paid out of any money deposited as security, until after the return of process against the agent. R. S. O. 1877, c. 11, s. 98. Process to recover costs.

102. Except where otherwise provided, the costs of any oral examination or cross-examination, or of the production of any documents, in pursuance of this Act, shall, subject to the discretion of the Court or Judge, be deemed costs in the cause. R. S. O. 1877, c. 11, s. 99. Costs of oral examinations, etc.

103.—(1) Costs may be taxed in the prescribed manner, but according to the same principles as costs are taxed between party and party in the High Court, and such costs may be recovered in the same manner as the costs of an action, or in such other manner as may be prescribed. Taxation and recovery of costs.

(2) No greater counsel fee or fees shall be taxed as between party and party in respect of or in connection with the trial than \$50, and when the trial shall continue beyond one day, a sum not exceeding \$40 for each additional day the trial shall continue, whether one or more counsel shall be engaged at the trial.

(3) Except as to such witness fees and other actual disbursements, in respect of evidence taxable in ordinary actions between party and party, as may be allowed by the judgment or order of the Court allowing or apportioning costs, no greater sum (including counsel fee) than \$300 shall be taxed or taxable against either party as costs in the cause. 48 V. c. 4, s. 1.

104. It shall not be necessary, in any proceedings upon an election petition, to make a Judge's order for the payment of costs a rule of the Court of Appeal, but writs of execution may be issued from the said Court, in pursuance of the said order, in the same manner, and shall have the same force and effect as if the same had been issued in pursuance of a rule of Court. R. S. O. 1877, c. 11, s. 101. Execution may issue to enforce Judge's order for costs.

105. In the event of costs being awarded in favour of a party against any petitioner, such party shall (subject to the provisions of section 101), after the expiration of thirty days, Recovery of costs against petitioner.

upon the production of a certificate of taxation from the Registrar of the Court of Appeal, be entitled to receive out of the deposit the amount taxed to him as aforesaid, if the aggregate of the costs taxed against or due the said petitioner (certificates whereof are within the said period of thirty days filed with the said Registrar) does not exceed the deposit; or if the total amount of the said certificates so filed as aforesaid exceeds the deposit, then his proportion thereof; and in the event last aforesaid such party shall be entitled forthwith to issue execution, according to the practice in ordinary cases, for the residue of the costs so taxed to him as aforesaid. R. S. O. 1877, c. 11, s. 102.

Costs not to be awarded against candidate who is not unseated.

106. The costs of a petition or trial shall not be awarded against the candidate where he is not, by the judgment of the court, unseated; but this section shall not apply to cross petitions. 48 V. c. 4, s. 2.

Sec. 103, subss. 2 and 3 not to apply if candidate incurs penalty under R. S. O. c. 9, s. 164.

107. Sub-sections 2 and 3 of section 103 of this Act shall not apply to any case where a candidate incurs the penalties provided by section 164 of *The Ontario Election Act* for corrupt practices committed by himself or with his actual knowledge or consent. 48 V. c. 4, s. 3.

Provisions as to costs not specially provided for.

108. All other costs not hereinbefore provided for shall, in the absence of special contract between solicitor and client, be taxed as though incurred and taxable between party and party. 48 V. c. 4, s. 4.

RULES OF COURT.

Court of Appeal may make rules of Court.

109.—(1) The Court of Appeal, or a majority of its Judges, of whom the Chief Justice shall be one, may from time to time make, and may from time to time revoke and alter, General Rules and Orders for the effectual execution of this Act, and of the intention and object thereof, and the regulation of the practice, procedure and costs of election petitions, and the trial thereof, and the certifying and reporting thereon.

(2) Any General Rules and Orders made as aforesaid, and not inconsistent with this Act, shall be deemed to be within the powers conferred by this Act, and shall, while unrevoked, be of the same force as if they were enacted in the body of this Act.

Rules to be laid before the Legislature.

(3) Any General Rules and Orders made in pursuance of this section shall be laid before the Legislative Assembly within three weeks after they are made, if the Legislative Assembly is then sitting, and if the Legislative Assembly is not then sitting, within three weeks after the beginning of the then next Session of the Legislative Assembly. R. S. O. 1877, c. 11, s. 103.

Practice in cases not provided for.

110. The Rules of Court heretofore in force shall remain in force until abrogated or altered by Rules made in pur-

suance of this Act; and so far as the Rules from time to time in force do not extend, the principles, practice and rules on which election petitions, touching the election of members to the House of Commons of England, were on the fifteenth day of February, 1871, dealt with, shall, where not inconsistent with this Act, be observed. R. S. O. 1877, c. 11, s. 104.

MISCELLANEOUS.

111. In any case arising under this Act, any Judge for the time being on the *rota* for the trial of election petitions, or any Judge of the Court of Appeal, shall, for the purpose of enforcing obedience to any rule, or for punishing any contempt whatever, have the same power of granting a writ of attachment, to be issued from the Court of Appeal in vacation, as well as during the sittings of the said Court, as the High Court has, to enforce obedience to any rule or for punishing any contempt whatever. R. S. O. 1877, c. 11, s. 105.

Power to punish for contempt, and enforce rules.

112. In reckoning time for the purposes of this Act, Sunday and any day set apart by any Act of the Legislature of Ontario for a public holiday, fast or thanksgiving, shall be excluded. R. S. O. 1877, c. 11, s. 106.

Computation of time.

113. Any person who, according to the law for the time being, is entitled to practise as a solicitor in Ontario, may practise as an agent or solicitor, and any person who, by the law for the time being, is entitled to practise as a barrister-at-law in Ontario, may practise as counsel in cases of election petitions and all matters relating to elections before the Court or a Judge. R. S. O. 1877, c. 11, s. 107.

Who may practise as agent, solicitor or counsel.

114. The travelling and other expenses of the Judge, and all expenses properly incurred by the Sheriff in attending on the Judge and providing a Court, shall be defrayed out of moneys to be provided by the Legislative Assembly. R. S. O. 1877, c. 11, s. 108.

Travelling and other expenses of the Judge and Sheriff.

115. Where an Election Court reports that any persons named in the report have been guilty of corrupt or illegal practices it shall be the duty of the County Attorney to prosecute such persons for the offences mentioned unless the Court shall otherwise direct. 47 V. c. 4, s. 39.

Prosecution of persons reported for corrupt practices.

SCHEDULE A.

(Referred to in Section 29.)

FORM OF AFFIDAVIT ON PRODUCTION OF BOOKS AND PAPERS.

In the Court of Appeal.

Election for _____, holden on the _____ day of _____, A.D.

I, _____, of _____, make oath and say:—

1. That I have in my possession or power the documents relating to the

matters in question set forth in the first and second parts of the first Schedule hereto annexed.

2. I object to produce the said documents set forth in the second part of the said first Schedule.

3. (*State upon what grounds objection is made, and verify the facts as far as may be.*)

4. I have had, but have not now, in my possession or power the documents relating to the matters in question set forth in the second Schedule hereto annexed.

5. The last mentioned documents were last in my possession or power on (*state when*).

6. (*State what has become of the last mentioned documents, and in whose possession they now are.*)

7. According to the best of my knowledge, remembrance, information and belief, I have not now, and never had, in my own possession, custody or power, or in the possession, custody or power of my agents or solicitors, agent or solicitor, or in the possession, custody or power of any other person on my behalf, any deed, account, book of accounts, minutes, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document or other document whatever, relating to the matters in question, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second Schedules hereto annexed.

Sworn, &c.

R. S. O. 1877, c. 11, Sched. A.

SCHEDULE B.

(*Referred to in Section 83.*)

In the Court of Appeal.

Between { *A. B.*, Petitioner,
and
Y. Z., Respondent.

Take notice, that the Petitioner *A. B.* (*or as the case may be*) intends to appeal to the Honourable _____, the Judge appointed to try the petition in this case, against the decision of _____ Esq., the Registrar of the said Judge (*or as the case may be*), as to the vote of *C. D.*, of the _____ of _____, who appears in the Petitioner's (*or as the case may be*) particulars as No. _____ in the _____ Schedule, on the following grounds:—

(*State shortly ground or grounds of Appeal.*)

Dated the _____ day of _____, A. D., 18 ____.
To _____, *A. B.*, Petitioner.
Registrar,
or to *Y. Z.*, _____ or *E. F.*,
Respondent, Agent for Petitioner.
or *W. X.*, _____
Agent for Respondent.

R. S. O. 1877, c. 11, Sched. B.

CHAPTER 11.

An Act respecting the Legislative Assembly.

- LEGISLATIVE ASSEMBLY COMPOSED OF
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- NOT TO BE DISSOLVED BY DEMISE OF
THE CROWN, s. 2.
- DURATION OF LEGISLATIVE ASSEM-
BLY, s. 3.
- YEARLY SESSIONS, s. 4.
- PROROGATION, s. 5.
- PERSONS DISQUALIFIED AS MEM-
BERS—
Senators, s. 6.
Members of House of Commons,
s. 7.
Persons holding offices under the
Crown, s. 8.
Public contractors, ss. 9-11.
Election of persons disqualified to
be void, s. 12.
- ACCEPTANCE OF OFFICE WHEN TO
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- PENALTIES FOR SITTING AND VOTING
WHILE DISQUALIFIED, s. 14.
- AFFIDAVIT TO BE MADE BY MEMBERS
ELECT AS TO ELECTION EXPENSES,
s. 15.
- RESIGNATION OF MEMBERS, ETC., AND
FILLING VACANCIES—
Resignation before meeting of
Assembly after a general elec-
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to affect right to contest pre-
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New election where election de-
clared void, ss. 19-21.
Persons declared not elected not
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Person declared elected may sit
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place, or by notice to Speaker,
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Issue of warrant for new elec-
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- THE SPEAKER—
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Salary, s. 31.
- Duties, s. 32.
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ters intended to come before
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- POWERS OF ASSEMBLY TO INQUIRE
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(8).
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48 (11).
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- PROTECTION OF PERSONS PUBLISHING
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- INDEMNITY TO MEMBERS, ss. 62-71.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Assembly to consist of ninety members.
Rev. Stat. c. 7.

1. The Legislative Assembly shall be composed of ninety members to represent the eighty-eight Electoral Districts mentioned in *The Act respecting the Representation of the People in the Legislative Assembly*. R. S. O. 1877, c. 12, s. 1; 48 V. c. 2, s. 7.

Legislature not dissolved by demise of the Crown.

2.—(1) No Legislative Assembly summoned or called in and for this Province shall determine or be dissolved by the demise of the Crown, but the Assembly shall continue, and may meet, convene and sit, proceed and act, notwithstanding the demise of the Crown, in the same manner as if such demise had not happened.

Power to prorogue or dissolve not affected.

(2) Nothing in this section shall alter or abridge the power of the Crown to prorogue or dissolve the Assembly. R. S. O. 1877, c. 12, s. 2.

Duration of Legislative Assembly.

3. Every Legislative Assembly shall continue for four years from the fifty-fifth day after the date of the writs for the election, and no longer (subject to being sooner dissolved by the Lieutenant-Governor):

But in case of a General Election at such time of the year that the election for the Electoral District of Algoma West and the Electoral District of Algoma East does not take place at the same time as the other elections, and if the Lieutenant-Governor (notwithstanding) sees occasion for a meeting of the Legislature before the election for the Electoral District of Algoma West and the Electoral District of Algoma East, the members elect for the other Electoral Divisions of the Province and the members elected for the Electoral District of Algoma West and the Electoral District of Algoma East at the last election theretofore had for said Electoral Districts respectively, shall constitute a lawful Assembly for the despatch of business, and may be summoned to meet accordingly:

And in such case the members elected for the Electoral District of Algoma West and the Electoral District of Algoma East at the last election aforesaid, shall represent the same until the new election therefor shall have taken place, and the return of the writ in that behalf shall have been received by the Clerk of the Crown in Chancery:

And in such case the duration of the new Assembly shall be four years from the day for which the Assembly was so summoned to meet for the despatch of business and no longer (subject to being sooner dissolved by the Lieutenant-Governor). 42 V. c. 4, s. 3; 48 V. c. 2, s. 12 (1-3).

Yearly Session of Legislature.

4. There shall be a Session of the Legislature once at least in every year, so that twelve months shall not intervene

between the last sitting of the Legislature in one Session and its first sitting in the next. R. S. O. 1877, c. 12, s. 4.

5. It shall not be necessary for the Lieutenant-Governor in proroguing the Legislature to name any day to which the same is prorogued; nor to issue a formal proclamation for a meeting of the Legislature when it is not intended that the Legislature shall meet for despatch of business. 42 V. c. 4, s. 2.

Prorogation of Legislature; formal proclamations abolished

DISQUALIFICATION AS MEMBERS.

6. No Senator, and no Privy Councillor of the Dominion of Canada who is a member of the House of Commons, shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same. R. S. O. 1877, c. 12, s. 5.

No Senator or Privy Councillor eligible.

7. If any person, being a member of the Legislative Assembly, sits or votes as a member of the House of Commons of Canada, his election to the Legislative Assembly shall thereby become void and his seat shall be vacated, and he shall become incapable of sitting or voting in the Legislative Assembly, and a writ shall issue for a new election in the manner provided for in sections 27 and 28 of this Act, and such person shall not be eligible for re-election as a member of the Legislative Assembly so long as he continues to be a member of the House of Commons. R. S. O. 1877, c. 12, s. 6.

Members of the Legislative Assembly, not to be members of House of Commons.

8.—(1) Except as hereinafter specially provided, no person

Persons holding office, etc., at the nomination of the Crown, etc., ineligible.

(a) Accepting or holding any office, commission or employment either in the service of the Dominion of Canada, or in the service of the Government of Ontario, at the nomination of the Crown or of the Lieutenant-Governor, to which a salary, or any fee, allowance or emolument in lieu of a salary from the Crown or from the Province is attached, or

(b) Accepting or holding any office, commission or employment of profit at the nomination of the Crown, or of the Government, or of any head of a Department in the Government of Ontario, whether such profit is or is not payable out of the public funds,

shall be eligible as a member of the Legislative Assembly, or shall sit and vote in the same during the time he holds such office, commission or employment.

(2) Nothing in this section shall render ineligible, or dis-
qualify to sit or vote, any person who was on the second day of March, 1872, a member of the Legislative Assembly, and who was at the time of his election holding an office, commission or employment, which would, but for this sub-section, disqualify him.

Exception.

Exception as to persons holding certain offices.

(3) Nothing in this section shall render ineligible as aforesaid, any person being a member of the Executive Council, or holding any of the following offices, that is to say—Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, Commissioner of Agriculture, Commissioner of Public Works or Minister of Education, or shall disqualify him to sit or vote in the Legislative Assembly, provided he is elected while holding such office, and is not otherwise disqualified.

Officers in the Army, Navy or Militia, etc.

(4) Nothing in this section shall render ineligible, as aforesaid, or disqualify to sit and vote in the Legislative Assembly, any officer of Her Majesty's Army or Navy, or any officer in the Militia or Militiaman (except officers on the Staff of the Militia receiving permanent salaries), or any Justice of the Peace, Coroner or Notary Public, or any person who, on the fifth day of March, 1880, held the office of Division Court Clerk, under the nomination or appointment of a Judge of a County Court, unless he is otherwise disqualified. R. S. O. 1877, c. 12, s. 7; 43 V. c. 8, s. 38; 46 V. c. 2, s. 7.

No public contractor eligible.

9. No person whosoever, holding or enjoying, undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of a trustee or third party, any contract or agreement with Her Majesty, or with any public officer or department, with respect to the public service of Ontario, or under which any public money of Ontario is to be paid for any service or work, matter or thing, shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same. R. S. O. 1877, c. 12, s. 8.

Exception as to sureties of Sheriffs, etc.

10.—(1) A person shall not be incapable of being elected a member of the Legislative Assembly by reason of his being a surety for a Sheriff, Registrar, County Attorney, Clerk or Bailiff of a Division Court, or other public officer, or by reason of his being a surety or contractor for the payment of the maintenance of a patient at a public asylum for the insane, unless he is otherwise disqualified.

(2) But any person who is elected a member of the Legislative Assembly, being at the time of his election a surety as aforesaid, shall, before he sits or votes in the Legislative Assembly, take and complete such action as may be requisite to relieve him from any thereafter accruing liability in respect of his suretyship, and no person who is liable as such surety in respect of any accruing matter shall sit or vote in the Legislative Assembly. 46 V. c. 2, s. 8.

Preceding section not a declaration of disqualification.

11. The provisions of the preceding section shall not be regarded as a legislative declaration that the persons in the said section described, or any of them, come within the disqualification of the said section. 46 V. c. 2, s. 9.

12. If any person hereby disqualified or declared incapable of being elected a member of the Legislative Assembly, is nevertheless elected and returned as a member, his election and return shall be null and void. R. S. O. 1877, c. 12, s. 9.

Election of person disqualified to be void.

13.—(1) If any member of the Legislative Assembly becomes a member of the Executive Council, or if by accepting any other office or becoming a party to any contract or agreement as in section 9 mentioned, he becomes disqualified by law to continue to sit or vote in the Legislative Assembly, his election shall thereby become void, and his seat shall be vacated; and a writ shall, in the manner provided by sections 27 and 28 of this Act, issue for a new election as if he were naturally dead; but he may be re-elected if he be not declared ineligible under this Act.

If member disqualified by accepting office or contract, seat to be vacated. May be re-elected.

(2) Nevertheless, whenever any person holding the office of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, Commissioner of Agriculture, Commissioner of Public Works or Minister of Education, and being at the same time a member of the Legislative Assembly, resigns his office, and within one month after his resignation accepts any other of the said offices, he shall not thereby vacate his seat in the Legislative Assembly, unless the Administration of which he was a member has resigned, and a new Administration occupies the said offices; or in case a member of the Executive Council holding any one of the said offices, is appointed to hold another office in addition to or in connection with such first mentioned office, he shall not thereby vacate his seat in the Legislative Assembly; and any increase or change of emolument arising from the holding of such two offices shall not cause any vacancy, or render a re-election necessary. R. S. O. 1877, c. 12, s. 10.

Certain officers may resign one office and accept another without vacating seat.

Acceptance of additional office, no vacation of seat.

14.—(1) No person disqualified by this Act or by any other law, to be elected a member of the Legislative Assembly, shall sit or vote in the same while he remains under such disqualification; and if any person by this Act made ineligible as a member of, or declared incapable of sitting or voting in the Legislative Assembly, sits or votes therein while he is so ineligible or incapable, he shall thereby forfeit the sum of \$2,000 for every day on which he so sits or votes; and such sum may be recovered from him by any person who will sue for the same by action in any Court of competent civil jurisdiction in Ontario.

No disqualified person shall sit or vote.

Penalty.

How recoverable.

(2) In case an action, is brought, and judgment therein is recovered against the defendant, no proceedings shall be had in any other action, against the same person, for any such offence committed before the time of notice to him of the recovery of the judgment.

Proceedings after recovery of judgment.

While action pending no new action to be brought. Staying proceedings in other actions.

(3) While such action is pending, no other such action shall be brought against the same defendant.

(4) The Court wherein any other action is brought, contrary to the intent and meaning of this Act, shall and may, upon the defendant's motion, stay the proceedings therein, if the first mentioned action be prosecuted without fraud, and with effect; but no action, shall be deemed an action within this Act, unless so prosecuted. R. S. O. 1877, c. 12, s. 11.

OATH AS TO ELECTION EXPENSES.

Member elect before taking oath as member to file affidavit as to election expenses, etc.

15. Before a member elect of the Legislative Assembly is permitted to take the oath as a member, he shall file with the Clerk of the House, an affidavit duly sworn before the Clerk, that (except in respect of his personal expenses) he has not made before, or during, or after the election, and will not make any payment, advance, loan or deposit for the purposes of the election, otherwise than through his agent or agents duly appointed by him under *The Ontario Election Act*; and the affidavit shall state the name or names of the agent, or agents, theretofore appointed, and shall further state that the deponent has not been guilty of any corrupt practice in respect of the said election, and may be in the form of Schedule A to this Act or to the like effect. R. S. O. 1877, c. 12, s. 12.

Rev. Stat. c. 9, s. 189.

FILLING VACANCIES WHEN MEMBER RESIGNS OR ELECTION DECLARED VOID.

Members may resign their seats.

16. A member of the Legislative Assembly may voluntarily resign and vacate his seat in the manner hereinafter provided. R. S. O. 1877, c. 12, s. 13.

Resignation of seats by members before meeting of the Assembly.

17.—(1) If a person returned as elected to the Legislative Assembly for one or more constituencies at a general election, wishes to resign his seat or one of his seats, before the first meeting of the said Assembly thereafter, he may address or cause to be addressed, to any two members elect of the said Assembly, a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses; and the two members, upon receiving the declaration, shall forthwith address their warrant, under their hands and seals, to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and the writ shall issue accordingly; and the member so tendering his resignation shall be held to have vacated the seat, and shall cease to be a member of the said Assembly in respect to the seat so vacated.

When resignation may be tendered.

(2) But no member elect shall so tender his resignation for a seat in respect of which his election is lawfully contested, nor

until after the expiration of twenty-one days from the time the return of his election was made to the Clerk of the Crown in Chancery. R. S. O. 1877, c. 12, s. 14.

18. The election to be held under such writ shall not in any manner affect the right of any person entitled to contest the previous election and claim the seat; and the Judge or Judges trying the previous election shall determine whether the member who has so resigned, or any other person was duly returned or elected thereat; which determination, if adverse to the return of such member, and in favour of any other candidate, shall avoid the election held under section 17, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held. R. S. O. 1877, c. 12, s. 15.

New election not to affect the right to contest previous election.

19. Forthwith after the receipt by the Speaker, or, in case there is no Speaker, by the Clerk of the House, of a certificate of the Judge or Judges determining an election petition and certifying that the election was void, or of a certificate of the Registrar of the Court of Appeal certifying that the election was void, the Speaker or Clerk, as the case may be, shall address his warrant under his hand and seal to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member for the constituency the election for which has been certified to be void, and the writ shall issue accordingly. R. S. O. 1877, c. 12, s. 16; 48 V. c. 2, s. 17 (1).

Issue of writ for new election, when election declared void.

20. The Speaker shall forthwith after the receipt of the certificate, as in the preceding section mentioned, communicate the same to the Clerk for his guidance as to the persons entitled to take the oath and sign the roll as members. R. S. O. 1877, c. 12, s. 17; 48 V. c. 2, s. 17 (2).

Speaker to notify to Clerk who are entitled to take the oath, etc.

21. The proceedings taken under the preceding four sections by the Speaker or Clerk shall be reported by the Speaker to the Legislative Assembly at the earliest practicable time, and shall be forthwith entered on the Journals of the Legislative Assembly. R. S. O. 1877, c. 12, s. 18.

Proceedings to be reported to Legislative Assembly.

22. In case any person returned as elected is, by the certificate of the Judge appointed to try an election petition in respect of the election, determined not to have been duly returned or elected, such person shall not thereafter sit or vote in that Legislative Assembly. R. S. O. 1877, c. 12, s. 19.

Persons declared not elected not to sit or vote.

23. In case any person, other than the person returned as elected, is by the certificate of the Judge appointed to try an election petition determined to have been duly returned or elected, such person shall thereupon be entitled to sit and vote in the Legislative Assembly. R. S. O. 1877, c. 12, s. 20.

Persons declared elected by Judge may sit and vote.

Writ not to issue during session.

24. No writ shall issue under any of the provisions of the next preceding seven sections during a Session of the Legislative Assembly. R. S. O. 1877, c. 12, s. 21.

Resignation by member giving notice in his place in the Legislative Assembly.

25.—(1) A member wishing to resign his seat may do so by giving in his place in the Legislative Assembly notice of his intention to resign it, in which case and immediately after such notice has been entered by the Clerk on the Journals of the Legislative Assembly, the Speaker shall address his warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member resigning.

Or by notice in writing to the Speaker.

(2) Or a member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a Session of the Legislature, or in the interval between two Sessions; and the Speaker shall, upon receiving such declaration, forthwith address his warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member so resigning, and a writ shall issue accordingly; and an entry of the declaration so delivered to the Speaker shall be thereafter made in the Journals of the Legislative Assembly.

Seat vacated on such notice.

(3) The member so tendering his resignation shall be held to have thereby vacated his seat, and to have ceased to be a member of the Legislative Assembly.

No member to resign contested seat.

(4) But no member shall so tender his resignation while his election is lawfully contested, nor until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery. R. S. O. 1877, c. 12, s. 22.

Proceedings where a member wishes to resign where there is no Speaker, or the member is himself the Speaker.

26. If a member of the Legislative Assembly wishes to resign his seat in the interval between two Sessions of the Legislature, and there is then no Speaker, or if such member is himself the Speaker, he may address and cause to be delivered to two members of the said Assembly, the declaration before mentioned of his intention to resign, and the two members, upon receiving the declaration, shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and the writ shall issue accordingly; and the member so tendering his resignation shall be held to have vacated his seat and shall cease to be a member of the said Assembly. R. S. O. 1877, c. 12, s. 23.

Proceedings in case of vacancy by death or acceptance of office.

27.—(1) If a vacancy happens in the Legislative Assembly by the death of a member, or by his accepting any office, commission or employment, or by his becoming a party to a

contract as mentioned in section 9 of this Act, the Speaker, on being informed of the vacancy by a member of the said Assembly in his place, or by notice in writing under the hands and seals of two members of the said Assembly, shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill the vacancy, and a new writ shall issue accordingly.

(2) If when a vacancy happens, or at any time thereafter, before the Speaker's warrant for a new writ has issued, there is no Speaker of the said Assembly, or the Speaker is absent from the Province, or if the member whose seat is vacated is himself the Speaker, then two members of the said Assembly may address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. R. S. O. 1877, c. 12, s. 24.

Proceedings when Speaker is absent from Ontario, or there is no Speaker.

28.—(1) A warrant may issue under the hands and seals of two members elect of the Legislative Assembly to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member of the Legislative Assembly, to fill any vacancy arising subsequently to a general election and before the first meeting of said Assembly thereafter, by reason of the death or other of the causes aforesaid, and the writ may issue at any time after such vacancy.

Warrant for filling a vacancy before Legislative Assembly meets after a general election.

(2) The election to be held under the writ shall not in any manner affect the rights of any person entitled to contest the previous election; and the report of the Court or Judge appointed to try the previous election shall determine whether the member who has so died or whose seat has become so vacant as aforesaid, or any other person, was duly returned or elected thereat, which determination, if adverse to the return of such member and in favour of any other candidate, shall avoid the election held under this section, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no subsequent election had been held, R. S. O. 1877, c. 12, s. 25.

Election being contested not affected.

SPEAKER OF THE LEGISLATIVE ASSEMBLY.

29. The Legislative Assembly on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker. R. S. O. 1877, c. 12, s. 26.

Election of Speaker.

30. In case of a vacancy happening in the office of Speaker, by death, resignation or otherwise, the Legislative Assembly shall with all practicable speed proceed to elect another of its members to be Speaker. R. S. O. 1877, c. 12, s. 27.

Filling up vacancy in office of Speaker.

31. A salary of \$1,000 per annum shall be payable to the Speaker of the Legislative Assembly. R. S. O. 1877, c. 12, s. 28.

Speaker's salary.

Speaker to
preside.

32. The Speaker shall preside at all meetings of the Legislative Assembly. R. S. O. 1877, c. 12, s. 29.

Provision in
case of absence
of Speaker.

33. In case of the absence for any reason of the Speaker from the chair of the Legislative Assembly for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of the absence of the Speaker have and execute all the powers, privileges, and duties of Speaker. R. S. O. 1877, c. 12, s. 30.

In case of ill-
ness, etc., of
the Speaker,
he may call on
any member
to take the
chair *pro tem*.

34. Whenever, from illness or other cause, the Speaker finds it necessary to leave the chair during any part of the sittings of the said Assembly on any day, he may call upon any member thereof to take the chair and to act as Speaker during the remainder of the day unless the Speaker himself resumes the chair before the close of the sittings for that day; and the member so called upon shall take the chair and act as Speaker accordingly. R. S. O. 1877, c. 12, s. 31.

In what case
the Assembly
may elect a
Speaker for
the day.

35. Whenever the Speaker, from illness or other unavoidable cause, cannot be present at the meeting of the Assembly on any day, it shall be lawful for the said Assembly to elect a member to take the chair and preside as Speaker for that day. R. S. O. 1877, c. 12, s. 32.

Acts and or-
ders of the As-
sembly in such
cases to be
effectual.

36. Every Act passed, and every order made and thing done by the said Assembly while such member is acting or presiding as Speaker as aforesaid, shall be as valid and effectual, to all intents and purposes, as if done while the Speaker himself was presiding in the chair. R. S. O. 1877, c. 12, s. 33.

POWERS AND PRIVILEGES OF THE LEGISLATIVE ASSEMBLY.

Power to com-
pel attendance
of witnesses,
etc.

37. The Legislative Assembly may at all times command and compel the attendance before the Assembly, or before any Committee thereof, of such persons, and the production of such papers and things as the Assembly or Committee may deem necessary for any of its proceedings or deliberations. R. S. O. 1877, c. 12, s. 34.

Speaker's war-
rant for attend-
ance, etc.

38. Whenever the Legislative Assembly requires the attendance of any persons before the said Assembly or before a Committee thereof, the Speaker may issue his warrant or subpoena, directed to the persons named in the Order of the Legislative Assembly, requiring the attendance of such persons before the Legislative Assembly or a Committee thereof, and the production of such papers and things as may be ordered. R. S. O. 1877, c. 12, s. 35.

Protection of
persons acting
under
authority.

39. No person shall be liable, in damages or otherwise, for any act done under the authority of the Legislative Assembly.

and within its legal power, or under or by virtue of any warrant issued under such authority: all such warrants may command the aid and assistance of all sheriffs, bailiffs, constables, and others, and every refusal or failure to give such aid or assistance when required shall be an infringement of this Act. R. S. O. 1877, c. 12, s. 36.

Warrants may command aid

40. No member of the Assembly shall be liable to any civil action or prosecution, arrest, imprisonment, or damages, by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the said Assembly. R. S. O. 1877, c. 12, s. 37.

Freedom of speech.

41. Except for a breach of this Act, no member of the Assembly shall be liable to arrest, detention or molestation for any debt or cause whatever of a civil nature within the legislative authority of this Province, during a Session of the Legislature, or during the twenty days preceding or the twenty days following the Session. R. S. O. 1877, c. 12, s. 38.

Freedom from arrest.

42. During the periods mentioned in the preceding section all members, officers and employees of the Assembly, and all witnesses summoned to attend before the same or a Committee thereof, shall be exempt from serving or attending as jurors before any Court of Justice in this Province. R. S. O. 1877, c. 12, s. 39.

Freedom of members and officers from serving as jurors.

43. No member of the Legislative Assembly shall knowingly accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted or intended to be submitted to the consideration of the said Assembly or of a Committee thereof. R. S. O. 1877, c. 12, s. 40.

Members not to receive fees for drafting bills, etc.

44. No barrister or solicitor who, in the practice of his profession, is a partner of a member of the Legislative Assembly, shall accept or receive, either directly or indirectly, any fee, compensation or reward as aforesaid. R. S. O. 1877, c. 12, s. 41.

Barristers, etc., being partners of members not to receive fees for drafting bills, etc.

45. Any person wilfully violating the provisions of the preceding two sections of this Act shall be subject to a penalty of \$500 over and above the amount or value of the fee, compensation or reward accepted or received by him, to be paid with full costs of action to any one who will sue therefor, one half thereof to be paid to the person so suing and the other half to Her Majesty for the public uses of this Province. R. S. O. 1877, c. 12, s. 42.

Penalty for violation of ss. 43 and 41.

46. Any violation of section 43 shall be deemed a corrupt practice, and an election petition setting up the same may be

Breach of s. 43, to be deemed a corrupt practice.

filed within six months after the offence in the same manner, and the proceeding thereupon and the effect of every judgment, report and order therein shall be the same as in the case of other election petitions. R. S. O. 1877, c. 12, s. 43.

Seat of member guilty of a violation of s. 43 to be vacated.

47. In case judgment is recovered against a member of the Legislative Assembly for any penalty under section 45 of this Act, or in case, by a resolution of the said Assembly, it is declared that a member thereof has been guilty of a violation of section 43 of this Act, or in case on the trial of an election petition filed within six months from the alleged violation, it is found by the Judge trying the petition that a member has committed a violation of section 43 of this Act, the election of such member shall thereby become void, and the seat of such member shall be vacated, and a writ shall issue for a new election as if he were naturally dead, and the said member shall *ipso facto* be incapable of being elected to or of sitting in the Legislative Assembly during the then existing House of Assembly. R. S. O. 1877, c. 12, s. 44.

Legislative Assembly to have jurisdiction to try certain matters.

48. The said Assembly shall have all the rights and privileges of a Court of Record for the purpose of summarily inquiring into and punishing, as breaches of privilege or as contempt of Court (without prejudice to the liability of the offenders to prosecution and punishment criminally or otherwise according to law, independently of this Act), the acts, matters and things following:—

Assaults, insults, libels,

1. Assaults, insults or libels upon members of the Legislative Assembly during the Session of the Legislature and twenty days before and after the same;

threats,

2. Obstructing, threatening or attempting to force or intimidate members of the said Assembly;

bribery and offering of fee,

3. The offering to or the acceptance of a bribe by any member of said Assembly to influence him in his proceedings as such, or the offering to or acceptance of any fee, compensation or reward by any member for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted to or intended to be submitted to the said Assembly or any Committee thereof;

interference with officers,

4. Assaults upon or interference with officers of said Assembly, while in the execution of their duty;

tampering with witness,

5. Tampering with any witness in regard to evidence to be given by him before said Assembly, or any Committee thereof;

false evidence,

6. Giving false evidence or prevaricating or otherwise misbehaving in giving or refusing to give evidence or produce papers before the said Assembly or any Committee thereof;

disobedience to subpoena,

7. Disobedience to subpoenas or warrants issued under the authority of this Act to compel the attendance of witnesses before the said Assembly or any of its Committees;

8. Presenting to said Assembly or to any Committee thereof a forged or false document, with intent to deceive the said Assembly or Committee ;

presenting false document.

9. Forging, falsifying or unlawfully altering any of the records of said Assembly, or of any Committee thereof, or any document or petition presented or filed or intended to be presented or filed before said Assembly or Committee, or the setting or subscribing, by any person, of the name of another person to any such document or petition with intent to deceive ;

falsifying records, etc.

10. The bringing of any civil action or prosecution against, or the causing or effecting of any arrest or imprisonment of, any member of the said Assembly in any civil proceeding, for or by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the said Assembly ;

bringing action or arrest-ing for conduct as member.

11. The causing or effecting of the arrest, detention, or molestation of a member of the said Assembly for any debt or cause whatever of a civil nature, during a session of the said Assembly, or during the twenty days preceding or the twenty days following such Session ;

Arresting for debt, etc.

And for the purpose of this Act, the said Assembly is hereby declared to possess all such powers and jurisdiction as may be necessary or expedient for inquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution, the punishment thereof provided for by this Act. R. S. O. 1877, c. 12, s. 45.

Jurisdiction given as to inquiring and punishing.

49. Every person who, upon such inquiry, appears to have committed or done any of the acts, matters, or things in section 48 mentioned, in addition to any other penalty or punishment to which he may by law be subject, shall be liable to an imprisonment for such time, during the Session of the Legislative Assembly then being held, as may be determined by the Legislative Assembly. R. S. O. 1877, c. 12, s. 46.

Punishment for contraven-tion of s. 48.

50. Whenever the Legislative Assembly declares that any person has been guilty of a contempt for any of the acts, matters and things in section 48 set forth, and directs such person to be taken into custody or to be imprisoned, the Speaker shall issue his warrant to the sergeant-at-arms attending the House, or to the keeper or governor of the common gaol in the county of York, to take such person into custody and to keep and detain him in custody in accordance with the order of the said Legislative Assembly in that behalf. R. S. O. 1877, c. 12, s. 47.

Proceeding on contravention of s. 48, and arrest therefor.

51. The determination of the Legislative Assembly upon any proceeding under this Act, and within the Legislative

Decision of Legislative Assembly to be final.

Assembly to
be final.

authority of this Province, shall be final and conclusive.
R. S. O. 1877, c. 12, s. 48.

Protection of
persons pub-
lishing papers,
etc., by order
of Legislative
Assembly.

52. In case of any civil proceeding or prosecution against any person for, or on account or in respect of, the publication of any copy of any report, paper, votes or proceedings, printed by order of the Assembly, the defendant, at any stage of the proceedings, may lay before the Court or Judge such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy, and that such report, paper, votes or proceedings were printed and published by order of the said Legislative Assembly; and the Court or Judge shall immediately stay the civil proceeding, and the same and every writ or process issued therein, shall be, and shall be deemed to be, finally put an end to, determined and superseded by virtue of this Act. R. S. O. 1877, c. 12, s. 49.

Protection of
persons
publishing
abstracts of
papers printed
by order of
Legislative
Assembly.

53. It shall be lawful in any civil proceeding against a person for printing any extract from or abstract of any such report, paper, votes or proceedings, to give in evidence, under the defence of not guilty by statute, such report, paper, votes or proceedings, and to shew that the extract or abstract was published *bona fide* and without malice, and if such is the opinion of the Court or of the Jury, as the case may be, judgment shall be rendered, or a verdict shall be entered for the defendant. R. S. O. 1877, c. 12, s. 50.

Printed copies
of Journals to
be evidence.

54. In such proceeding, a copy of the Journals of the Legislative Assembly, printed or purporting to be printed by the order of the same, shall be admitted as evidence of such Journals by all Courts, Justices and others, without proof being given that such copies were so printed. R. S. O. 1877, c. 12, s. 51.

Act not to
abridge privi-
leges, etc.,
inherent in
Legislative
Assembly or
its members.

55. Except so far as is provided in section 43 of this Act, nothing herein shall be construed to deprive the Legislative Assembly, or any Committee or member thereof, of any rights, immunities, privileges or powers which the said Assembly, Committee or member might, but for this Act, have been entitled to exercise or enjoy. R. S. O. 1877, c. 12, s. 52.

QUORUM AND MANNER OF VOTING.

Quorum of
Legislative
Assembly.

56. The presence of at least twenty members of the Legislative Assembly shall be necessary to constitute a meeting of the Legislative Assembly for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member. R. S. O. 1877, c. 12, s. 53.

Voting in
Legislative
Assembly.

57. Questions arising in the Legislative Assembly shall be decided by a majority of voices other than that of the Speaker,

and when the voices are equal, but not otherwise, the Speaker shall have a vote. R. S. O. 1877, c. 12, s. 54.

MONEY VOTES.

58. The Legislative Assembly shall not originate or pass any vote, resolution, address or bill for the appropriation of any part of the consolidated revenue fund, or of any other tax or impost, to any purpose which has not been first recommended by a message of the Lieutenant-Governor to the Legislative Assembly during the session in which the vote, resolution, address or bill is proposed. R. S. O. 1877, c. 12, s. 55.

Appropriation of any part of Consolidated Revenue Fund to be first recommended by Lieutenant-Governor.

ESTATE BILLS.

59. The Lieutenant-Governor in Council may, from time to time, issue commissions to the Judges of the Supreme Court empowering them, or any two of them, to report under the Rules and Orders of the Legislative Assembly, to the said Assembly, in respect to estate bills, or petitions for estate bills, which may be submitted to the said Assembly. R. S. O. 1877, c. 12, s. 56.

Lieut.-Governor may issue Commissions to Judges to report on estate bills.

OATHS TO WITNESSES.

60. Any standing or select committee of the Legislative Assembly may require that facts, matters and things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses, and may examine such witnesses upon oath, and for that purpose the Chairman or any member of the Committee may administer an oath, in the form of Schedule B to this Act, to any witness. R. S. O. 1877, c. 12, s. 57.

Committees of Legislative Assembly may examine on oath.

61. Where witnesses are not required to be orally examined before a committee, any oath, affirmation, declaration, or affidavit in writing, which is required to be made or taken by or according to any rule or order of the Legislative Assembly, or by the direction of any committee, and in respect to any matter or thing pending or proceeding before the committee, may be made and taken before the clerk of the House, the clerk of the committee, or a commissioner for taking affidavits in the High Court. R. S. O. 1877, c. 12, s. 28.

Affidavits to be used by committee before whom to be made.

INDEMNITY TO MEMBERS.

62. In every session of the Legislative Assembly there shall be allowed to each member of the Legislative Assembly attending at the session, \$6 for each day's attendance, if the session does not extend beyond thirty days, and if the session extends beyond thirty days then there shall be payable to each member attending at such session, a sessional allowance of such sum as may from time to time be appropriated for the purpose. R. S. O. 1877, c. 12, s. 59.

Allowance to members for attendance at any Session.

Deductions for non-attendance.

What shall be reckoned as days of attendance.

63. A deduction at the rate of \$4 per day shall be made from the sessional allowance for every day on which the member does not attend a sitting of the House, or of some committee thereof, provided the House sits on such day; but each day during the session, after the first on which the member attends as aforesaid, on which there has been no sitting of the House, in consequence of its having adjourned over the day, or on which the member was in the place where the session was held, but was prevented by sickness from attending the sitting as aforesaid, shall be reckoned as a day of attendance at the session, for the purposes of this Act, and a member shall, for the purposes aforesaid, be held to be at the place where the session is held whenever he is within ten miles of such place. R. S. O. 1877, c. 12, s. 60.

Allowance for less than thirty-one days' attendance.

64. A member shall not be entitled to the said sessional allowance for less than thirty-one days' attendance, reckoned as aforesaid, but his allowance for any less number of days shall be \$6 for each day's attendance. R. S. O. 1877, c. 12, s. 61.

How the compensation shall be payable.

65. The compensation may be paid from time to time, as the member becomes entitled to it, to the extent of \$4 for each day's attendance as aforesaid, but the remainder shall be retained by the clerk of the House until the close of the session, when the final payment shall be made. R. S. O. 1877, c. 12, s. 62.

Where a person is a member for only part of the Session.

66. If a person is from any cause a member of the Legislative Assembly for a part only of a session, then, provided he is a member for upwards of thirty days during the Session, he shall be entitled to the sessional allowance hereinbefore mentioned, subject to the deduction aforesaid for non-attendance as a member, and also to a deduction of \$4 for each day of the session before he was elected, or after he ceased to be a member; but if he is a member for only thirty days or less, then he shall be entitled only to \$6 for each day's attendance at the session, whatever be the length thereof. R. S. O. 1877, c. 12, s. 63.

Allowance for mileage.

67. There shall be also allowed to every member ten cents for every mile of the distance between the place of residence of the member and the City of Toronto, reckoning the distance going and coming according to the nearest mail route, which distance shall be determined and certified by the Speaker. R. S. O. 1877, c. 12, s. 64.

Final payment at the close of Session.

Declaration to be made by members.

68. The sum due to every member at the close of a session shall be calculated and paid to him by the clerk of the House, on his making and signing before the clerk or accountant of the House, or a justice of the peace, a solemn declaration, to be kept by the clerk, stating the number of days' attendance and the number of miles of distance according to the nearest

mail route, as determined and certified by the Speaker, for which he is entitled to the said allowance, and the amount of such allowance, after deducting the number of days (if any) which are to be deducted under any preceding section of this Act; and the declaration may be in the form of Schedule C hereunto annexed, and shall have the same effect as an affidavit in the same form. R. S. O. 1877, c. 12, s. 65.

69. There is hereby granted to Her Majesty, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of this Province, an annual sum sufficient to enable Her Majesty to advance to the Clerk of the Legislative Assembly such sums as are required to pay the estimated amounts of the sessional allowance hereinbefore mentioned. R. S. O. 1877, c. 12, s. 66.

Grant for paying the allowance.

70. The Clerk of the Legislative Assembly shall account for all moneys received by him under this Act, in the same manner as for moneys advanced to him for the contingent expenses of the Legislative Assembly, and he may apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount out of any moneys in his hands applicable to the payment of such contingent expenses. R. S. O. 1877, c. 12, s. 67.

Clerk to account for moneys received by him.

71. The next preceding nine sections may be cited as "*The Members' Indemnity Clauses*" of this chapter. R. S. O. 1877, c. 12, s. 68.

Short mode of citing.

SCHEDULE A.

(Referred to in Section 15.)

FORM OF MEMBER'S OATH AS TO EXPENSES OF ELECTION.

I, _____ of the _____, elected to represent the Electoral District of _____ (as the case may be,) in the Legislative Assembly of the Province of Ontario, make oath and say:—That, except in respect of my personal expenses, I have not made, before, during or since the election, any payment, advance, loan, or deposit for the purposes of the election last held for the said Electoral District otherwise than through *A. B.* and *C. D.*, my agents duly appointed under *The Ontario Election Act*; and that I will not hereafter make any payment, loan or deposit in respect of the said election, except through an agent or agents appointed under the said Act. I further say that I have not been guilty of any corrupt practice in respect of the said election.

Sworn before me, this _____

day of _____

A.D. 18. _____

*Clerk of the Legislative Assembly
of the Province of Ontario.*

R. S. O. 1877, c. 12, Sched. A.

SCHEDULE B.

(Referred to in Section 60.)

FORM OF OATH TO BE ADMINISTERED.

The evidence you shall give to this Committee touching the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth : So help you God.

R. S. O. 1877, c. 12, Sched. B.

SCHEDULE C.

(Referred to in Section 68.)

DECLARATION TO OBTAIN SESSIONAL ALLOWANCE.

I, *A. B.*, one of the members of the Legislative Assembly, solemnly declare that I reside at _____, in _____, which is distant by the nearest mail route _____ miles, as determined by the Speaker of the Legislative Assembly, from the City of Toronto, where the Session of the Legislative Assembly of Ontario, which began on the _____ day of 18 _____, was held.

That the first day during the said Session on which I was present at Toronto, where the said Session was held, was the _____ day of _____, 18 _____.

That on the said day, and on each day of the said Session, after the said day, on which there was a sitting of the said Legislative Assembly, I attended such sitting, or a sitting of some Committee thereof,* except only on _____ days,** on _____, of which I was prevented by sickness from attending as aforesaid, though I was then present at the said City of Toronto.***

(Signature) *A. B.*

Declared before me at _____ the _____ day of _____ 18 _____.

J. N.

Clerk (or Accountant) of the Legislative Assembly,
or Justice of the Peace for the
of _____
(as the case may be.)

*If the member attended a sitting of the House, or of some Committee, on every sitting day after the first on which he so attended, omit the words from * to ***; and if his non-attendance was not on any day occasioned by sickness, omit the words from ** to ***.*

If the person making the declaration became or ceased to be a member after the commencement of the Session, vary the form so as to state correctly the facts upon which the sum due to the member is to be calculated.

R. S. O. 1877, c. 12, Sched. C.

SECTION IV.

EXECUTIVE GOVERNMENT AND PUBLIC OFFICERS.

CHAP. 12.—LIEUTENANT-GOVERNOR AND DEPUTIES, p. 215.

“ 13.—EXECUTIVE COUNCIL, p. 216.

“ 14.—PUBLIC SERVICE, p. 217.

“ 15.—PUBLIC OFFICERS, p. 226.

“ 16.—SHERIFFS, p. 237.

“ 17.—INQUIRIES CONCERNING PUBLIC MATTERS, p. 251.

“ 18.—PUBLICATION OF OFFICIAL NOTICES, p. 253.

CHAPTER 12.

An Act respecting the Lieutenant-Governor and his Deputies.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The Lieutenant-Governor and his successors shall be a corporation sole ;—and all bonds, recognizances, and other instruments by law required to be taken to him in his public capacity, shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors, by his or their name of office as such ;—and the same shall not in any case go to or vest in the personal representatives of the Lieutenant-Governor, during whose government the same were so taken. R. S. O. 1877, c. 13, s. 1.

Lieutenant-Governor to be a corporation sole.

2. The Lieutenant-Governor may, with the advice and consent of the Executive Council, from time to time appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of the Province, for the purpose of executing marriage licenses, money warrants and commissions under any Act of the Legislature of Ontario. R. S. O. 1877, c. 13, s. 2.

Power to appoint Deputies for certain purposes.

CHAPTER 13.

An Act respecting the Executive Council.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Composition
of Executive
Council of
Ontario.

1. The Executive Council shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit; but shall not at any time consist of more than six members.
R. S. O. 1877, c. 14, s. 1.

Appointment
of Executive
Officers.

2. The Lieutenant-Governor may appoint under the Great Seal of the Province from among such persons as may be appointed members of the Executive Council the following officers to hold office during pleasure, that is to say:—an Attorney-General, a Secretary and Registrar of the Province, a Treasurer of the Province, a Commissioner of Crown Lands, a Commissioner of Agriculture, a Commissioner of Public Works, and a Minister of Education; and may by Order in Council from time to time prescribe the duties of those officers and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof; and (subject to the provisions of section 1) may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.
R. S. O. 1877, c. 14, s. 2.

Duties of
members of
Executive
Council may
be assigned to
other mem-
bers.

3. Any of the powers and duties which have been heretofore, or may be hereafter, assigned by law to the officers now constituting, or who may hereafter constitute, the Executive Council, may, from time to time, by Order in Council, be assigned and transferred, either for a limited period or otherwise, to any other of the said officers by name or otherwise.
R. S. O. 1877, c. 14, s. 3.

Executive
Councillor
sitting or vot-
ing in House

4. If a member of the Executive Council of Ontario, whilst he holds such office, sits or votes as a member of the House of Commons of Canada, he shall thereby forfeit his office of Executive Councillor, and his appointment as Executive

Councillor shall from thenceforth be and become null and void, and he shall be incapable of being re-appointed to or holding the office of Executive Councillor of Ontario so long as he is a member of the House of Commons of Canada. R. S. O. 1877, c. 14, s. 4. of Commons
to forfeit his
office, etc.

CHAPTER 14.

An Act respecting the Public Service of Ontario.

SHORT TITLE, s. 1.	AIDING OTHER DEPARTMENTS, s. 24.
INTERPRETATION, s. 2.	REPORTS AS TO CLERKS, s. 25.
DIVISIONS OF DEPARTMENTAL STAFF, ss. 3, 4.	LEAVE OF ABSENCE, s. 26.
APPOINTMENTS AND PROMOTIONS, ss. 4-13.	GRATUITIES, s. 27.
CHIEF CLERKS, ss. 14, 16	REDUCTION TO LOWER CLASS, s. 28.
FIRST-CLASS CLERKS, s. 15.	FINES, s. 29.
DEPUTY HEADS OF DEPARTMENTS, ss. 17, 18.	HOURS OF ATTENDANCE, s. 30.
NUMBER OF OFFICERS AND CLERKS AND THEIR CLASSIFICATION, s. 19.	PAYMENT OF INCREASED SALARIES, s. 31.
EMPLOYMENT OF EXTRA CLERKS, s. 20.	OFFICERS OF HIGH COURT, ETC., s. 32.
EXTRA SERVICES, ss. 21, 30.	EXAMINATIONS, ss. 33-34.
SALARIES, s. 22.	RULES FOR CARRYING ACT INTO EF- FECT, s. 35.
POWER OF DISMISSAL, s. 23.	OATHS OF OFFICE, s. 36.
	APPLICATION OF ACT TO OFFICERS OF LEGISLATIVE ASSEMBLY, s. 37.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Public Service Act*." 41 V. c. 2. s. 43.

2. In this Act the expression "Head of a Department," means the member of the Executive Council for the time being presiding over such department. Interpretation
"Head of De-
partment," 41 V. c. 2, s. 42.

3.—(1) The Departmental Staff of the Civil Service of Ontario at the seat of Government shall consist of two divisions, that is to say: the "Ordinary Division," and the "Special Division." Two divisions
of staff of
Civil Service.

Special division ; two classes thereof.

(2) The Special Division shall include all those offices, whether now existing or hereafter to be created, which require for their exercise some skill usually acquired only in some professional or other pursuit, different from the Civil Service, and shall consist of two classes, that is to say, Officers and Clerks.

Ordinary division.

(3) The Ordinary Division shall include all those offices, whether now existing or hereafter to be created, which are not comprised in the Special Division, and shall consist of the Deputy Heads of Departments, Officers or Chief Clerks, Clerks, and Probationary Clerks. 41 V. c. 2. ss. 1-3.

Four classes of clerks in ordinary division. Salaries and promotion.

4. Clerks in the Ordinary Division shall be divided into four classes ;

A fourth class clerk shall receive a salary of not more than \$400 for his first year's service as such, and may thereafter have an annual increase of \$50 per annum until his salary is \$650 per annum, but he shall not be eligible for promotion into the third class until after four years' service in the fourth class ;

A third class clerk shall receive a salary of not more than \$700 for his first year's service as such, and may thereafter have an annual increase of \$50 per annum until his salary is \$950 per annum, but he shall not be eligible for promotion into the second class, until after five years' service in the third class ; but no clerk shall from having served four years in the fourth class, or from having served five years in the second class, be absolutely entitled to promotion into the next higher class ;

A second class clerk shall receive a salary of not more than \$1000 for his first year's service as such, and may have an annual increase of \$50 per annum until his salary is \$1,200 per annum, but he shall be eligible for promotion into the first class at any period of his service in the second class ;

A first class clerk shall receive a salary of not more than \$1,200 per annum, and may have an annual increase of \$50 per annum until his salary is \$1,400 per annum, but if any clerk promoted into the first class has at the time of such promotion a higher salary than \$1,200 per annum, he shall continue to receive such salary until by length of service in the first class, he has a right to that amount as a first class clerk, from which time he shall receive an annual increase of \$50 per annum until his salary is \$1,400 per annum, and he shall be eligible for promotion at any period of his service in the first class.

Suspension of increase.

No clerk shall have an absolute right to the annual increase of salary authorised by this Act, but the same may be suspended and subsequently restored by the head of the department but without payment of arrears.

Terms of payment of increase.

The annual increase of salary shall be payable from the first day of the quarter next succeeding the date at which, from his length of service any clerk may be eligible for such increase.

Salary on promotion.

In case of promotion the increase of salary shall become payable from the first day of the month next succeeding the date at which such promotion took place.

Officers and clerks in the Special Division shall receive such salaries respectively as may be assigned to them by Order in Council, and voted by the Legislature. 41 V. c. 2, s. 4.

Salaries in special division.

APPOINTMENTS AND PROMOTIONS.

5. No member of the Senate of Canada, or of the Commons of Canada, shall be appointed to or shall hold any permanent office or employment in the service of the Government of Ontario, at the nomination of the Crown or of the Lieutenant-Governor, to which a salary, or other emolument in lieu of salary is attached; but this section shall not be held to include justices of the peace, coroners, or notaries public, or persons holding any like office. 41 V. c. 8, s. 3.

Members of Senate or Commons not to hold permanent office at a salary.

6. No appointment or promotion shall be made except under the authority of the Lieutenant-Governor in Council upon the application and report of the head of the department in which it is to be made. 41 V. c. 2, s. 5.

Appointment and promotion how made.

7. Every person entering the civil service within the meaning of this Act shall, except as hereinafter provided, be subject to a probation of six months, and shall be conditionally employed in the lowest, or, where in the opinion of the Lieutenant-Governor in Council, special but not professional qualifications are required, he may be employed in the third class in that division of the service to which he is attached, at the minimum salary of such class. 41 V. c. 2, s. 7.

Probationary employment.

8. Every candidate for admission into the civil service shall, as a condition precedent to his nomination as a probationer, produce such evidence as the Lieutenant-Governor in Council may think sufficient as to his age, health, and moral character; and every candidate for admission into the ordinary division shall further pass, before examiners appointed by the Lieutenant-Governor in Council, such examination, but without competition, as the Lieutenant-Governor in Council may direct. 41 V. c. 2, s. 8.

Evidence as to character, etc.

Examination.

9. Where any person has been conditionally employed upon probation in any office in the civil service, if, at the expiration of six months from the date of such employment, the head of the department in which the probationer has served shall recommend in writing the probationer as a suitable person to be appointed an officer of the civil service, the Lieutenant-Governor in Council may, if he thinks fit, then, but not before appoint such person. 41 V. c. 2, s. 9.

Appointment of a probationer.

10. Whenever it is expedient to secure for the public service on the occurrence of any vacancy, the services of some person of known ability, special attainments, and technical knowledge, and to place such person immediately in some of the higher

Appointment in special cases without probation or examination.

classes of the civil service, although such person may not have been engaged in the civil service of this Province, the Lieutenant-Governor in Council, anything in this Act to the contrary notwithstanding, may appoint such person accordingly, and without either examination or probation. 41 V. c. 2, s. 12.

Appointment
of former em-
ployees.

11. Notwithstanding anything herein contained, any person who at any time has been or shall hereafter be employed in the civil service, and who has not been dismissed or called on to resign for improper conduct, may be appointed to any class in the same manner as if he had never left the service. 41 V. c. 2, s. 13.

Promotion in
ordinary divi-
sion.

12. Where in the ordinary division any vacancy occurs in a superior class, if it be expedient to fill up the vacancy, the Lieutenant-Governor in Council, except as hereinafter provided, shall promote such clerk or officer in the class first below that in which the vacancy has occurred, as he shall judge the most deserving of promotion. 41 V. c. 2, s. 10.

Promotion or
appointment
in special divi-
sion, without
examination or
probation.

13. When in the special division a vacancy occurs, if it be expedient to fill up the vacancy, and the Lieutenant-Governor in Council be of opinion that there is any clerk or officer of lower rank in the department where the vacancy has occurred competent to discharge the duties of the office, he shall appoint such clerk or officer; but if in his opinion there be no such clerk or officer, then he may appoint such person as he may think fit, although not previously engaged in the civil service, with or without examination or probation. 41 V. c. 2 s. 11.

OFFICERS OR CHIEF CLERKS.

Chief clerks;
their salaries.

14. There may be in each department of the civil service one or more officers or chief clerks who shall receive such salaries respectively as may be fixed and determined by the Governor in Council, and voted by the Legislature. 41 V. c., 2, s. 15.

First-class
clerks, addi-
tional salary.

15. If in any department there are any special duties requiring or assigned to an officer or chief clerk, an additional salary not exceeding \$400 per annum may be given by Order in Council to one or other first class clerks in the department, who shall have the rank of chief clerk, but the additional salary shall not become payable until the same shall be appropriated by the Legislature. 41 V. c. 2, s. 16.

Division of
departments.

16. The Lieutenant-Governor in Council may from time to time divide any department of the Public Service into as many branches or sub-departments as may appear most convenient for the public service, and one of the officers or first or second

class clerks in such department may be appointed the chief clerk of such branch, and shall perform the duties assigned to him by the head of the department, and an additional salary not exceeding \$400 per annum may by Order in Council be paid to the person holding the position of chief clerk of such branch of said department, but the additional salary shall not become payable until the same be appropriated by the Legislature. 41 V. c. 2, s. 17.

DEPUTY HEADS OF DEPARTMENTS.

17.—(1) The following officers shall be respectively the deputy heads of the Department to which they are attached and shall receive such salaries respectively as may be assigned to them by the Legislature:

Deputy heads
of Depart-
ments;
salaries.

The Deputy of the Attorney-General,
The Deputy of the Minister of Education,
The Assistant Commissioner of Crown Lands,
The Assistant Provincial Secretary,
The Assistant Commissioner of Public Works,
The Assistant Treasurer,
The Clerk of the Executive Council.

The office of the clerk of the Executive Council may be held by one of the other deputy heads.

(2) In the absence of a deputy head, the head of the department may empower any officer or chief clerk thereof to perform the duties of such deputy head. 41 V. c. 2, s. 18.

Substitutes
for deputy
heads.

18. It shall be the duty of the deputy head of each department, and he shall have authority, subject always to the head of the department, to oversee and direct the other officers, clerks, and servants of the department. He shall have the general control of the business of the department, and such other powers and duties as may be assigned to him by the Lieutenant-Governor in Council, and in the absence of the minister and during such absence, may suspend from his duties any officer, clerk, or servant of the department who refuses or neglects to obey his directions as such deputy. 41 V. c. 2, s. 19.

Duties of
Deputy heads.

GENERAL PROVISIONS.

19. As soon as conveniently may be after the passing of this Act, the Lieutenant-Governor in Council shall determine the number of officers or chief clerks, and the officers and clerks of each class and of each division that are required for the working of the staff of each department, and shall classify the same according to the arrangements so determined, and the classification shall be submitted to the Legislature at its next Session thereafter; and after such classification has been submitted to

Lieut.-Gov in
Council to de-
termine num-
ber of chief
clerks, etc.,
and classify.

the Legislature no first-class clerk and no officer or chief clerk in either division shall be appointed, nor shall any person be rated at any salary higher than the maximum of the first-class, except (1) upon a vacancy, or (2) upon the creation of an additional first-class clerkship or office or chief clerkship by special Order in Council, and upon the approval by the Legislature of the salary thereunto attached as a separate item in the estimates of the year in which such first-class clerkship or office or chief clerkship is created. 41 V. c. 2, s. 20.

Extra clerks,
time of em-
ployment,
salary, etc.

20. No extra clerk shall, except under an Order in Council, be employed in any department unless for a period not exceeding three months, for which he may be paid at a rate not exceeding \$2 per diem out of the contingencies of the department on the certificate of the head or deputy head thereof, except only that if such extra clerk be an accountant, a book-keeper, or a person of special attainments and employed as such, he may be paid at a rate not exceeding the ordinary charge for such services;

But any extra clerk may, under an Order in Council, made on the application and report of the head of the department that the same is requisite, be employed for a longer period than three months, and he shall, during such period, be borne on the pay-list of the department;

At the end of six months such extra clerk shall only be retained in the department as a probationary clerk, if nominated, examined and appointed as such in the manner required by this Act. 41 V. c. 2, s. 21.

No compensa-
tion for extra
services.

21. No allowance or compensation shall be made for any extra services whatsoever which any officer or clerk may be required to perform in the department to which he belongs.. 41 V. c. 2, s. 22.

Salaries of pre-
sent clerks.

22. Nothing in this Act shall prejudicially affect the salary or emolument of any officer or clerk in the civil service at the time of the passing of this Act so long as he shall be continued in office, nor shall anything herein contained affect any salary or emolument granted or fixed by any Act now, or which may hereafter be, in force. 41 V. c. 2, s. 23, *part*.

Power of dis-
missal of Lieu-
tenant-Gover-
nor.

23. No provision herein contained shall impair the power of the Lieutenant-Governor to remove or dismiss any deputy head of a department, officer or clerk. 41 V. c. 2, s. 23, *part*.

Aid of clerks
from other
Departments.

24. When the clerks of the staff of any department cannot with sufficient speed perform the duties required on any emergency, the deputy head of the department may require from the deputy heads of any other departments the temporary services of any clerks not then actively engaged in their own departments, but without additional remuneration. 41 V. c 2, s. 24.

25. Every head of the department shall furnish to the Lieutenant-Governor in Council at such times as the Lieutenant-Governor in Council may direct, reports upon the conduct and the efficiency of the officers and clerks employed in his department. 41 V. c. 2, s. 14.

Heads of Departments to report as to clerks.

26. The head of every department may at such times as may be convenient, grant to every officer or clerk leave of absence for recreation for any period or periods not exceeding in the whole three weeks in each year, and may in cases of illness or other pressing necessity grant such extended leave not exceeding twelve months, and on such terms as the Lieutenant-Governor in Council may think fit. 41 V. c. 2, s. 25.

Leave of absence.

27. When the services of an officer are hereafter dispensed with in consequence of a change in a department, or in consequence of the age and infirmity, or ill health of the officer, but not for any fault on the part of the officer, such gratuity may be allowed him as shall be directed by Order in Council, but not exceeding one month's pay for each year of his service; and in the event of the death of any clerk or officer while in the service of the Crown, the gratuity may be paid to his family. 41 V. c. 2, s. 26.

Gratuity on leaving for ill-health, etc.

28. The Lieutenant-Governor in Council may at any time on account of improper conduct or inefficiency, upon the report of the head of the department, order that any officer or clerk of one class be reduced to a lower class, and thereupon his salary shall be from the first day of the month next succeeding such order, reduced to such sum in such lower class as may be ordered, but he may at any time after be restored by order of the Lieutenant-Governor in Council to the status which he had lost, and his salary may be fixed, upon such restoration, at the sum to which he would have been entitled, except for such reduction. 41 V. c. 2, s. 27.

Reduction to a lower class.

Restoration.

29. If the head of the department wherein such officer or clerk is engaged, or in his absence his deputy be of opinion, that the offence is not of so serious a nature, that a report thereof should in the course of his duty, be made to the Lieutenant-Governor in Council, the head of the department, or, in his absence, his deputy, may for every such case of misconduct, order to be deducted by way of fine from the salary of such officer or clerk a sum not exceeding \$20. 41 V. c. 2, s. 28.

Fine for misconduct.

30. The Lieutenant-Governor in Council may regulate the hours of attendance of the officers and clerks in any department; and when the public service demands, in case of pressure or urgency, that additional time be given, such additional time as the head or deputy head of any department may require, shall be given by all officers and clerks, without additional compensation. 41 V. c. 2, s. 29.

Hours of attendance.

Payment of increased salaries.

31. The increase of salaries hereinbefore provided for shall not become payable until an appropriation therefor shall be made by the Legislature. 41 V. c. 2, s. 38.

THE LAW COURTS.

Law offices.

32.—(1) This Act shall apply to the offices of the Master in Chambers, the Master in Ordinary of the Supreme Court, the Registrars of the Court of Appeal and of the several Divisions of the High Court, the Accountant of the Supreme Court, the Surrogate Clerk, the Clerk of Records and Writs, the Clerk of the Process, and the Clerk in Chambers; but nothing in this Act contained shall prevent the appointment of a clerk or officer to any of the offices in this section mentioned in the first instance, or promotion otherwise than by this Act is provided, should the interests of the public service in the opinion of the Lieutenant-Governor in Council require the same.

Construction of the word "department."

Chief officers. Powers.

(2) In so far as applicable, the word "department" in this Act and for the purpose of this Act shall extend to and include the offices of the Courts in this section mentioned; and the Attorney-General of the Province for the time being shall be the head thereof; and the chief officer of each of the said offices shall for the purpose of this Act have and possess the same powers and authority as the deputy head of a department, but nothing herein contained shall impair or interfere with the authority or control of the Courts and Judges over their officers. 41 V. c. 2, s. 30.

EXAMINERS.

Appointment of examiners.

33. The Lieutenant-Governor in Council is hereby authorized from time to time and as occasion may require:

(a) To appoint suitable persons for the purpose of examining and investigating into and reporting upon the knowledge, ability and fitness of candidates who present themselves upon a nomination for office or employment in the Civil Service of Ontario;

Rules for candidates.

(b) To make rules and regulations to be observed by candidates for employment in the Civil Service and to prescribe the subjects upon which the candidates shall be examined. 41 V. c. 2, s. 31.

Examinations and certificates.

34. It shall be the duty of the person or persons appointed as examiner or examiners, to examine the candidates who present themselves upon a nomination for office, as hereinbefore mentioned, and to grant certificates of qualification of candidates whose examination as to fitness and capacity and knowledge have been found satisfactory. 41 V. c. 2, s. 32.

35. The Lieutenant-Governor in Council may make rules and regulations for carrying the provisions of this Act into effect, and for classifying the offices and clerkships in the public service. 41 V. c. 2, s. 33. Rules for carrying Act into effect.

OATHS OF OFFICE.

36. Every deputy head, officer, or chief clerk, or clerk, shall, before entering upon the duties of his office, take and subscribe before the Clerk of the Executive Council for Ontario, the Oath of Allegiance and the Solemn Declaration contained in the Schedule of this Act; and the Clerk of the Executive Council for Ontario shall keep a register of such oaths. 41 V. c. 2, s. 40. Oaths of office.

OFFICERS OF THE LEGISLATIVE ASSEMBLY.

37. This Act shall apply to the permanent officers and servants of the Legislative Assembly, saving always all legal rights and privileges of the House as respects the appointment or removal of its officers and servants, or any of them. 41 V. c. 2, s. 41. Act to apply to officers, etc. of House of Assembly.

SCHEDULE.

(Section 36.)

“I (A. B.) solemnly and sincerely declare that I will faithfully and honestly fulfil the duties which devolve upon me as Declaration., and that I will not ask or receive any sum of money, service, or recompense, or matter, or thing whatsoever, directly or indirectly, in return for what I have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an Order of the Lieutenant-Governor in Council.”

41 V. c. 2, Sched. A.

CHAPTER 15.

An Act respecting Public Officers.

COMMISSIONS CONTINUED ON DEMISE
OF THE CROWN, ss. 1, 2.

OATHS OF ALLEGIANCE, AND OFFICE,
ss. 3-7.

SACRAMENTAL TEST NOT REQUIRED AS
QUALIFICATION FOR OFFICE, s. 8.

SECURITY BY PUBLIC OFFICERS, ss.
9-27.

Nature of security, s. 9.

Liability of sureties, s. 9.

Record of bonds, ss. 10, 11.

Forfeiture of office for failure to
give security, s. 12.

New security to be given on death,
etc., of surety, s. 13.

Relief of surety desiring to with-
draw, s. 14.

Remission of penalties, s. 15.

Approval after time limited, s. 16.

Effect of delay in giving security,
s. 17.

Registration of securities execut-
ed at different times, s. 18.

Neglect, etc., not to vacate bond
s. 19.

Registration after time limited,
s. 20.

Act not to affect cases otherwise
provided for, ss. 21, 22.

STATEMENT OF BONDS TO BE MADE TO
LEGISLATIVE ASSEMBLY, s. 23.

GUARANTEE COMPANIES AS SECURITY,
s. 24.

SECURITY OF SHERIFFS, REGISTRARS,
AND DIVISION COURT CLERKS
AND BAILIFFS, s. 25.

AFFIDAVITS OF JUSTIFICATION, ETC.,
MAY BE MADE BEFORE A JUSTICE
OF THE PEACE, s. 26.

LIMITATION OF LIABILITY OF SURETIES.
s. 27.

RETURNS OF FEES, ETC., ss. 28, 29.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

COMMISSIONS ON DEMISE OF THE CROWN.

Commissions
continued on
demise of the
Crown.

1.—(1) Upon the demise of the Crown, it shall not be neces-
sary to renew any commission, by virtue whereof any public
officer or functionary in this Province held his office or pro-
fession, during the previous reign, but a proclamation shall be
issued by the Lieutenant-Governor, authorizing all persons in
office who held commissions under the late Sovereign, and all
functionaries who exercised any profession by virtue of any
such commissions, to continue in the due exercise of their
respective duties, functions and professions, and such proclama-
tion shall suffice, and the incumbents shall, as soon thereafter as
may be, take the usual and customary oath of allegiance before
the proper officer or officers thereunto appointed.

(2) The proclamation being issued and oath taken, every
public officer and functionary shall continue in the lawful
exercise of the duties and functions of his office or profes-
sion, as fully as if appointed *de novo* by commission derived
from the Sovereign for the time being; and all acts and things
bona fide done and performed by such incumbents in their
respective offices, and in the due and faithful performance of
their duties and functions, between the time of the demise and

the proclamation so to be issued (the oath of allegiance being always duly taken), shall be deemed to be legally done and valid accordingly. R. S. O. 1877, c. 15, s. 1.

2. Nothing in the next preceding section shall prejudice or in anywise affect the rights or prerogatives of the Crown with respect to any office or appointment derived or held by authority from it, nor prejudice nor affect the rights or prerogatives thereof in any other respect whatsoever. R. S. O. 1877, c. 15, s. 2.

Saving as to rights of the Crown.

OATHS OF ALLEGIANCE AND OFFICE, ETC.

3. It shall not be necessary for any person appointed to any civil office in this Province, or any Mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a Barrister, Notary Public, Attorney or Solicitor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say:

No other oath but those hereinafter prescribed to be required of certain officers.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, (*or the reigning Sovereign for the time being,*) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which may be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I may know to be against Her or any of them;—And all this I do swear without any equivocation, mental evasion or secret reservation: So help me God."

Oath of allegiance.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R. S. O. 1877, c. 15, s. 3.

Oath for faithful performance of duties.

4. The form hereinbefore set forth, and no other, shall be that of the oath of allegiance to be administered to and taken by every person in this Province who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any statute of the Legislature of this Province, desires to take an oath of allegiance. R. S. O. 1877, c. 15, s. 4.

The said form of oath of allegiance and no other to be used in all cases.

5. All Magistrates and other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of this Province. R. S. O. 1877, c. 15, s. 5.

Who may administer oath of allegiance.

6. The oath of allegiance hereinbefore set forth, together with the oath of office or oath for the due exercise of any profession or calling, shall be taken within the period, and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such oaths, in all such cases respectively. R. S. O. 1877, c. 15, s. 6.

Oath to be taken within the time by law provided.

Affirmation instead of oath in certain cases.

Its effect.

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By whom it may be administered.

7. All persons allowed by law to affirm instead of swearing in civil cases in any part of this Province, shall be received to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance, and such affirmation of allegiance taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath; and shall as to such affirmants have the like effect as the said oath of allegiance; and all Magistrates and other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the affirmation of allegiance in any part of this Province. R. S. O. 1877, c. 15, s. 7.

SACRAMENTAL TEST NOT REQUIRED.

No person need take the Sacrament as a qualification for any office.

8. It shall not be necessary for any person, for the purpose of qualifying himself to hold office in this Province, or for any other temporal purpose, privilege or advantage whatsoever within the same, to receive the Sacrament of the Lord's Supper according to the rites or usages of the Church of England, or to deliver a certificate or make proof of his having received the said Sacrament in manner aforesaid; and no person shall within this Province, be subject to any penalty, forfeiture, incapacity or disability whatsoever, for or by reason of his not having so taken or received the said Sacrament. R. S. O. 1877, c. 15, s. 8.

SECURITY BY PUBLIC OFFICERS.

Persons appointed to public offices to give security.

9.—(1) Every person appointed to any civil office or employment, or commission in any public department of the Government of this Province, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of this Province, and who by reason thereof is required to give security, with a surety or sureties, or otherwise, shall, within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), give and enter into a bond or bonds, or other security or securities, in such sum, and with such sufficient surety or sureties as may be approved of by the Lieutenant-Governor, or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control. R. S. O. 1877, c. 15, s. 9.

Liability of sureties of public officer for acts of deputy.

(2) Where a deputy is appointed by any person holding an office which is subject to the authority of this Legislature, any security required by law and hereafter given by such person, shall be construed to extend to and include the acts of the deputy, whether appointed before or subsequent to the giving of the security. The liability of the sureties, and of the officer appointing the deputy, shall be the same as regards the performance of the duties of the office by the deputy, as in

regard to the performance thereof by the person holding the office wherein the deputy is appointed; and such liability shall extend to and cover all acts of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as may from time to time exist in regard to the security given by public officers.

(3) The Lieutenant-Governor in Council may, notwithstanding the above provision, require any deputy to furnish new security on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions, as that required by law for the due performance of the duties of the officer whom the deputy represents. 49 V. c. 16, s. 7.

Deputy may be required to furnish security.

10.—(1) Every person who, by reason of his appointment to any civil office or employment, or commission in any public department, or of public trust, as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of public moneys, as aforesaid, gives or enters into a bond or other security for the due performance of the trust reposed in him, or for the due accounting for of public money entrusted to him, shall cause every such bond or security to be proved, as to the due execution thereof, by an affidavit of the attesting witness in the form of Schedule A annexed to this Act, made before a Justice of the Peace.

Affidavit of execution.

(2) Every surety in the bond, shall make an affidavit of justification in the form of Schedule B, hereto annexed, before a Justice of the Peace.

Affidavit of justification by sureties.

(3) The person by or on whose behalf the bond or security is entered into or given, shall cause the same, with the said affidavits thereunto annexed, to be recorded at full length in the office of the Secretary and Registrar of this Province, in manner hereinafter mentioned, and shall, forthwith after registration, deposit the original bond or security, and the affidavits thereto annexed, in the office of the Treasurer of the Province.

Bonds, how and where to be recorded and deposited.

(4) Every bond or security, and the affidavits thereto annexed, shall be recorded and deposited, as aforesaid, within one month after being entered into or given, if the person on whose behalf it is entered into or given resides or is in Ontario; and if he is absent from Ontario, then within three months after being entered into or given, unless such person arrives sooner in Ontario, and then within one month after such arrival.

Time within which bond to be recorded and deposited.

11.—(1) The Secretary and Registrar of the Province shall make an entry, and shall, if required, give a certificate in writing under his hand of every bond or security brought to him to be registered as aforesaid, and therein shall mention the day on which the bond or security is so registered, expressing also in what book, page or number the same is recorded.

Entry of bond and certificate thereof.

Separate book to be kept for the purpose.

(2) For the purpose of so registering bonds or securities under this Act, the Secretary and Registrar shall provide a separate register book, every page of which, and every bond or security recorded therein, shall be numbered; and the day of the month and year when every such bond or security is registered shall be entered in the margin of the register book, and in the margin of the bond or security.

Alphabetical list of names of principals, etc.

(3) The Secretary and Registrar shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in the bonds or securities, with reference to the book, page or number where the bonds or securities containing the names are to be found, and shall enter and register the bonds or securities in the same order of time in which they respectively come to his hands. R. S. O. 1877, c. 15, s. 11.

Commission may be declared avoided for non-compliance.

12.—(1) If any person who, by reason of his appointment to or holding any civil office or employment, or commission in any public department, or of public trust as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of public money as aforesaid, is required or bound to give any security, or to register and deposit any bond or security as aforesaid, neglects to give such security, or to cause such bond or security to be duly registered and deposited in the manner and within the period in this Act prescribed, he shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such security ought to have been given, and such bond or security, registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided under this Act; but such avoidance shall not annul or make void any act, order or other matter or thing done by such person during the time he actually held the appointment, office, employment or commission.

Avoidance not to annul acts done.

No forfeiture if delay caused by loss of bond.

(2) No forfeiture shall take place by reason of any bond or security not being registered or deposited, where the proper sureties have been given and the proper bond made out, and when the failure to register or deposit has arisen from the loss of the bond or security in the transmission thereof from a distance; but in every such case a new bond or security, specifying the reason of such delay, shall be made out and signed, registered and deposited, within the like period after the person giving such security receives notice of the loss (regard being had to the place where he then is), as is required by this Act for the registry thereof if such loss had not occurred. R. S. O. 1877, c. 15, s. 12.

Notice to be given of death, etc., of surety.

13.—(1) Every person as aforesaid, who has given any bond or other security, with a surety or sureties for the due execution of the trust reposed in him, or for duly accounting

for public moneys coming to his hands, shall give notice in writing to the Secretary and Registrar of this Province, or to the principal officer or person of the department to which he belongs, of the death, bankruptcy, insolvency or residence out of this Province of any surety or person bound for or with him in such security.

(2) The notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in this Province, or within three months if he is out of Ontario, unless he sooner arrives in Ontario, and then within one month after his arrival; and any person who neglects to give the notice within the period aforesaid shall forfeit to the use of Her Majesty one-fourth part of the sum for which the surety so dead, or bankrupt, or insolvent, or resident out of this Province became security, to be recovered in any Court of competent jurisdiction by action or information at the suit of the Crown.

Time for giving notice.

Penalty.

(3) Every person who, upon the death, bankruptcy, insolvency, or residence out of this Province of any surety, neglects to give the security of another surety, to be approved in like manner as the surety dying or becoming bankrupt, insolvent or resident out of this Province, was approved within such period from his having given notice of the death, bankruptcy or insolvency, or residence out of this Province, of the former surety as is by this Act limited for giving, registering and depositing the original security, or neglects to register and deposit the bond or security of the new surety, within such period from his having given the security of the new surety as is by this Act limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person may then be), shall be liable to forfeit the appointment, office, employment or commission, in respect whereof the new security ought to have been given, and the new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid. R. S. O. 1877, c. 15, s. 13.

Neglect to provide new surety punishable by forfeiture of office.

14. Where any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty by any such person as aforesaid, such surety, when no longer disposed to continue such responsibility, may give notice thereof to his principal, and also to the Secretary and Registrar of this Province; and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices, and the principal shall, within that period, give the security of another surety; and register and deposit the bond of the new surety, or, in default of so doing, shall be

How sureties may relieve themselves from further responsibility.

liable to forfeit and be deprived of the appointment, office, employment or commission, in respect whereof the new security ought to have been given, and the new bond or security registered and deposited as aforesaid, and his appointment or commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid. R. S. O. 1877, c. 15, s. 14.

Lieut.-Governor may remit penalty in certain cases ;

15.—(1) The Lieutenant-Governor in Council may remit the forfeiture or penalty in any case in which the failure to give security, or to register and deposit any bond or security under this Act, has not arisen from the wilful neglect of the person bound to give, register or deposit the same.

or may extend time for giving security, etc ;

(2) If it appears to the Lieutenant-Governor that the period hereinbefore limited for giving the security of a new surety as aforesaid is, in consequence of particular accidents, casualties or circumstances, insufficient, or that by reason of the distance or loss of letters, or illness, or the refusal of any surety to give the security, or of such surety not being deemed eligible and being rejected, or any other accident or casualty, further time will be necessary to enable the security of such new surety to be given, the Lieutenant-Governor in Council may allow such further period for giving the security of such new surety as appears to him reasonable and proper.

but not more than two months, and an entry there of must be made.

(3) But such extended period shall in no case exceed two months beyond the period allowed by this Act, and the precise period proposed to be allowed, together with the special grounds for allowing the same, shall be either entered in the book in which the original security has been registered, or endorsed on the back of the original bond or other security itself ; and the person required to give the security of such new surety shall not be subject to any forfeiture or penalty for not giving the same within the time limited by this Act, if he gives it within the extended period so allowed as aforesaid. R. S. O. 1877, c. 15, s. 15.

Security may be approved, although given after time limited.

16. The Lieutenant-Governor may approve of the security given by any public officer or the affidavit of justification made by his sureties and filed by him, although the same has been given or filed after the time limited by this Act ; and in such case the office or commission of such public officer shall be deemed not to have been avoided by such default, but to have remained and to remain in full force and effect. R. S. O. 1877, c. 15, s. 16.

Acts not void by delay in giving security, etc.

17. No act of any public officer of this Province whose security has been given, or registered, or deposited, or the affidavit of justification of whose sureties has been filed after the time limited by this Act, shall, by such default, be void or voidable. R. S. O. 1877, c. 15, s. 17.

18. Where the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or other instrument, or in different ones), the period limited for registering and depositing such securities shall be estimated from the time of execution thereof by the person who was the last to execute the bond, deed or other instrument, or the last bond, deed or other instrument, as the case may be. R. S. O. 1877, c. 15, s. 18.

Securities executed at different times, within what time to be registered.

19. No neglect, omission or irregularity in giving or receiving the bonds or other securities, or in registering the same within the periods or in the manner prescribed by this Act, shall vacate or make void any bond or security, or discharge any surety from the obligations thereof. R. S. O. 1877, c. 15, s. 19.

Neglect, etc., not to vacate bond or discharge surety.

20. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired; but no registering and depositing of any bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited, from any forfeiture or penalty, under any of the provisions of this Act. R. S. O. 1877, c. 15, s. 20.

Proper officer to register and deposit bonds, although time expired, but not to exempt from penalty.

21. Nothing in any of the preceding sections of this Act shall apply to or affect any officer of any department, with respect to which special provision is made by law for the giving of security by its officers and the exacting of security from them, unless such special provision does not extend or apply to such officer. R. S. O. 1877, c. 15, s. 21.

Not to affect cases where special provision made.

22. Nothing in the preceding sections of this Act shall be construed to apply to any Treasurer or other officer having the control or management of moneys levied and applied for municipal or local purposes. R. S. O. 1877, c. 15, s. 22.

Municipal treasurers.

23. The Secretary and Registrar of this Province shall cause to be prepared for the information of the Legislative Assembly of this Province, within fifteen days after the opening of every Session thereof, a detailed statement of all bonds or securities registered as aforesaid in his office, and of any changes or entries that have been made in reference to the names and residences of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the said Legislative Assembly. R. S. O. 1877, c. 15, s. 23.

Statement of bonds to be laid before Legislature.

24.—(1) Whenever a Sheriff, Registrar, Division Court Clerk or Bailiff, or other public officer, is required to give security for the performance of his duties, or other security of a like

Certain public officers may give security of guarantee companies.

nature, and whether such security enures for the benefit of the Crown or of any person injured by the default or misconduct of such officer, the Lieutenant-Governor in Council may, by Order in Council, direct that the bond or policy of guarantee of any incorporated or joint stock company empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of public officers, or other like purposes, and named by such Order in Council, may be accepted as such security, upon such terms as may be determined by the Lieutenant-Governor in Council; and the provisions of law with reference to the legal effect of such securities when given by individuals, to the filing thereof, and to the mode of proceeding thereon, shall apply to the security given by every such company.

(2) The interim receipt of the company may be accepted in lieu of the formal security, but the formal security shall be completed within one month. R. S. O. 1877, c. 15, s. 24.

Securities by
Sheriffs,
Registrars,
Division
Court Clerks
and Bailiffs,
and actions
thereon by
the Crown.

25. Every covenant hereafter entered into for or in behalf of a Sheriff, Registrar, Division Court Clerk or Bailiff aforesaid, in pursuance of any statute requiring security from any of such officers, or in pursuance of the preceding section, shall enure for the benefit of Her Majesty; and Her Majesty may bring and maintain an action thereon in respect of any damages suffered by Her Majesty or by the public on account of any misconduct, neglect or default of the officer in either instance, with the like effect as a private person suffering damages as aforesaid might, and may also sue in any other mode by which Her Majesty may sue upon a covenant. R. S. O. 1877, c. 15, s. 25.

Affidavits of
justification
and of execu-
tion may be
made before a
Justice of the
Peace or Com-
missioner.

26. Where by an Act of the Legislature of this Province, any person appointed to any public office, or authorized to perform any official duties is required to give or enter into any bond or other security for the proper performance of his duties, any affidavit of qualification or justification required to be made by such person or by the sureties in any such bond, and any affidavit of the due execution of such bond or security, may be made before a Justice of the Peace, or before a Commissioner authorized to take affidavits to be used in the High Court. R. S. O. 1877, c. 15, s. 26.

Limitation as
to liability of
sureties of
public officers.

27. Where any person, company or corporation is surety for the performance by a Sheriff, Registrar of Deeds, or Clerk or Bailiff of a Division Court, or by any other public officer, or by any person appointed to any civil office, employment or commission in any public department in the Government of this Province, or to any office or employment of public trust, whether the suretyship is for the benefit of the Crown or enures for the benefit of any person injured by the default or misconduct of such officer or other person, and any action is

brought upon the bond, covenant or recognizance of suretyship, no damages shall be recovered in the action against such surety except as to matters and causes of action which have arisen within ten years next before the commencement of the action. R. S. O. 1877, c. 15, s. 27.

RETURNS OF FEES.

28. Every public officer of the Province, who is by this Act or any other Act required to make a return of the fees and emoluments of his office to any department of the Government, or to any officer, shall include in said return the following particulars: Particulars in returns by public officers.

1. The aggregate amount of the fees and emoluments earned by him during the preceding year by virtue of his office;

2. The aggregate amount of all fees and emoluments actually received by him during the preceding year;

3. The actual amount of the disbursements during the same period in connection with his office. 43 V. c. 3, s. 2.

29. Every Clerk of a County Court and every Registrar of a Surrogate Court and every Clerk of a Division Court for a division embracing a city or part of a city, shall keep a separate book, in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, shewing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on the 15th day of January in each year make up to and including the 31st day of December of the previous year a return to the Lieutenant-Governor, under oath of such fees, charges and emoluments so received by him during the said year. 41 V. c. 2, s. 34. County Court and Division Court clerks and Registrars of Surrogate Court.

SCHEDULE A.

(Section 10.)

AFFIDAVIT OF EXECUTION.

County of _____ } I, *G. H.*, of the _____ of
 Province of Ontario. } in the County of _____
 make oath and say as follows:—

1. I am the person whose name is subscribed to the annexed bond as the attesting witness (*or*, one of the attesting witnesses) to the execution thereof, and the signature _____ set and subscribed thereto as such attesting witness is of my proper handwriting, and my name and addition are correctly above set forth.

2. I was present and did see the said bond duly signed and executed by the several parties thereto (*or, by A. B. and C. D., two of the parties executing the same, or as the case may be.*)

3. I am well acquainted with all the said parties (*or, with the said A. B. and C. D.*)

Sworn before me at
in the County (*or United Counties*) }
of , this day } G. H.
of , 18 . }

E. F.,
J.P. for the County of }
or Commissioner for taking affidavits, etc. }

R. S. O. 1877, c. 15, Sched. A.

SCHEDULE B.

(Section 10.)

AFFIDAVIT OF JUSTIFICATION.

County of , } I, A. B., one of the sureties in the an-
Province of Ontario. } nexed bond named, make oath and say as
follows:—

1. I am seised and possessed to my own use of real (*or, real and personal*) estate in the Province of Ontario, of the actual value of \$ (the amount for which the party has become liable on the bond) over and above all charges and incumbrances affecting the same.

2. (*Where the party has real estate.*) The said real estate consists of (*describing the property.*)

3. I am worth \$ (the amount for which the party has become liable in the bond) over and above my just debts.

4. My post office address is as follows: (*insert the name of the post office.*)

Sworn before me at
in the County (*or United Counties*) }
of , this day } A. B.
of , 18 . }

C. D.,
J.P. for the County of }
or Commissioner for taking affidavits, etc. }

R. S. O. 1877, c. 15, Sched. B.

CHAPTER 16.

An Act respecting the Office of Sheriff.

APPOINTMENT, s. 1.
 OATH, s. 2.
 SECURITY, ss. 3-24.
 SHERIFF FORFEITING OFFICE, TO ACT
 TILL A SUCCESSOR APPOINTED, s.
 25.
 SHERIFFS NOT TO TRADE, s. 26.
 SHERIFFS, ETC., NOT TO PURCHASE AT
 SALES UNDER EXECUTION, s. 27.
 MISCONDUCT OF BAILIFFS, CONSTA-
 BLES, ETC., ss. 28, 29.
 LIABILITY FOR ESCAPE, s. 30.
 FORFEITURE OF OFFICE FOR FALSE RE-
 TURNS, s. 31.
 PROCEEDINGS ON RECEIPT OF WRIT,
 NON-SERVICE AND RE-DELIVERY,
 s. 32.
 FAILURE BY SHERIFF TO RE-DELIVER,
 s. 33.
 CERTIFICATE AS TO EXECUTIONS,
 s. 34.
 OFFICE HOURS, s. 35.
 BOOKS, ss. 36-38.

QUARTERLY RETURNS OF FINES LE-
 VIED, s. 39.
 DUTY OF SHERIFF AS REGARDS ASSIZES,
 s. 40.
 RECOVERY OF FEES, ss. 41-43.
 PROVISION IN CASE OF SEPARATION OF
 A UNION OF COUNTIES, s. 44.
 ON SHERIFF'S DEATH OR DISABILITY,
 DEPUTY TO ACT, s. 45.
 BOOKS, ETC., TO BE PROPERTY OF
 GOVERNMENT, s. 46.
 PENALTY FOR NOT DELIVERING BOOKS
 TO SHERIFF'S SUCCESSOR, s. 47.
 PROCEEDINGS ON APPOINTMENT OF
 NEW SHERIFF, s. 48.
 SHERIFF RESIGNING MAY INSPECT
 BOOKS, ETC., FORMERLY IN HIS
 POSSESSION, s. 49.
 DEATH, RESIGNATION OR REMOVAL, OF
 SHERIFF, ss. 50, 51:
 Conveyance in case of, s. 50.
 Continuation of actions, s. 51.
 ALLOWANCE TO SHERIFFS, s. 52.

HER MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

1. The Lieutenant-Governor shall from time to time, as oc- Appointment
 casion may require, by commission under the Great Seal of the of Sheriffs and
 Province appoint a fit and proper person to the office of filling of
 Sheriff of each County, and shall in like manner fill up vacancies.
 any vacancy occurring by the death, removal, resignation or
 forfeiture of office by a Sheriff; but every Sheriff shall hold
 office during pleasure only. R. S. O. 1877, c. 16, s. 1.

(2) The Lieutenant-Governor may, in manner aforesaid,
 at any time hereafter, and from time to time, appoint one
 fit and proper person to be sheriff of the county of York, and
 another fit and proper person to be sheriff of the city of
 Toronto.

(a) In such case the Lieutenant-Governor in Council may
 define what duties with reference to Courts held

jointly for the city and county, including any duties to be performed under *The Jurors' Act*, shall be performed by the sheriffs of the city and county respectively.

(b) No act done by either of the said Sheriffs by mistake shall be held unlawful or invalid on the ground that the same should have been done by the other.

(3) Nothing in this section contained shall prevent the deputy of the late Sheriff of York, or the successor of such Sheriff, from proceeding upon and completing the execution or service within the City of Toronto of any writ of mesne or final process in the hands of such deputy, acting as Sheriff, or of the successor of the said Sheriff, on the 23rd day of April, 1887, or of any renewal thereof, or of any subsequent or supplemental writ in the same cause, or in case of executions against lands from executing all necessary deeds and conveyances relating to the same, and the act of such deputy or the successor of the said sheriff, shall be legal and valid in the same manner and to the same extent as if this section had not been passed, but no further. 50 V. c. 7, s. 4 (1-3).

Oaths to be
taken on
appointment.
Rev. Stat.
c. 15.

2. Every Sheriff, before he enters upon the duties of his office, shall take and subscribe the oath of allegiance, in the form given in section 3 of *The Act respecting Public Officers*, and also the oath of office in the form of Schedule A to this Act, and shall not be bound nor required to subscribe or take any other oath, nor make any other declaration or subscription, except as hereinafter provided; and every such oath respectively shall be filed in the office of the Clerk of the Peace for the county to which it relates. R. S. O. 1877, c. 16, s. 2.

Amount of se-
curity to be
given, how
determined.

Amount
limited.

3. The Lieutenant-Governor in Council may, from time to time by Order in Council, fix and determine the amount of the security to be given by every Sheriff as hereinafter mentioned; but such amount shall be in no case less than \$4,000, nor more than \$20,000 for the Sheriff, and not less than \$2,000, nor more than \$10,000 for each surety named in the covenant hereinafter mentioned, where there are two sureties, and not less than \$1,000, nor more than \$5,000 for each surety, where there are four sureties named in the said covenant. R. S. O. 1877, c. 16, s. 3.

Duplicate cov-
enant to be en-
tered into.
Rev. Stat. c.
15, s. 24.

Form.

4. Subject to the provisions of section 24 of *The Act respecting Public Officers*, every Sheriff shall, before he is sworn into office, and within one month after his appointment, execute and enter into a joint and several covenant in duplicate, with two or four sureties, for such amounts respectively as may be fixed and determined by Order in Council in that behalf as aforesaid: which said duplicate covenant shall be in the form Schedule B

to this Act, or to the like effect, and to each of the duplicate Affidavit of covenants respectively shall be attached an affidavit made by sufficiency by each of the covenantors therein named respectively, in the form of each of the covenantors. Form. of Schedule C to this Act, or to the like effect. R. S. O. 1877, c. 16, s. 4.

[As to justification by Sheriff of Thunder Bay, see "The Unorganized Territory Act," and as to Guarantee Companies, see Cap. 15, s. 24.]

5. One of the duplicate covenants, with the affidavits thereto attached, shall, within the periods hereinbefore limited respectively, be filed in the office of the Clerk of the Peace of the County, for which filing the Clerk shall be entitled to a fee of fifty cents, and the other duplicate covenant, with the affidavits attached to the same respectively, and an affidavit of the filing of such first-mentioned duplicate and affidavits in the office of the Clerk of the Peace as aforesaid, shall, within the same periods respectively, be transmitted to the office of the Provincial Secretary, and by him be submitted for the approval of the Lieutenant-Governor in Council. R. S. O. 1877, c. 16, s. 5.

6.—(1) In case the covenant is approved of by the Lieutenant-Governor in Council, it shall be forthwith deposited in the office of the Treasurer of the Province, and notice of such approval shall be given to the Sheriff by the Provincial Secretary; but in case the covenant is disapproved of by the Lieutenant-Governor in Council, the Provincial Secretary shall forthwith give notice to the Sheriff of such disapproval, and in such case the Sheriff shall, within one month thereafter, furnish and transmit another covenant in lieu of the covenant so disapproved of as aforesaid, to the satisfaction of the Lieutenant-Governor in Council.

(2) The sureties named in any covenant so disapproved of as aforesaid shall not be discharged from liability by such disapproval, but shall be and continue liable for any defaults or misfeasances made, done or committed previous to the approval by the Lieutenant-Governor in Council of any securities that may be furnished in lieu of the same. R. S. O. 1877, c. 16, s. 6.

7. The Lieutenant-Governor in Council may at any time require a Sheriff to renew his covenants or securities, or to furnish others in lieu of the same, as to him may appear expedient for the protection of the interests of the Crown or of parties to legal proceedings, which new or substituted covenants or securities the Sheriff shall be bound to transmit to the Provincial Secretary within three months after notice of the Order in Council in that behalf. R. S. O. 1877, c. 16, s. 7.

8. Every renewed or substituted covenant or security shall be in the same form, and executed and accompanied by the same formalities and affidavits, and subject to the same approval as the original covenants or security. R. S. O. 1877, c. 16, s. 8.

Liability of former sureties in case of renewal.

9. In case a new security is given or substituted as aforesaid, the former sureties shall only be liable for or on account of defaults and misfeasances suffered or committed by the Sheriff previous to the perfecting of the new security and the approval thereof by the Lieutenant-Governor in Council, and not as to any subsequent default or misfeasance. R. S. O. 1877, c. 16, s. 9.

Sheriff need not be dismissed for inability to justify as to security.

10. In case a Sheriff has given the security and made the affidavit of justification required to be made under section 4 of this Act, but has subsequently to his appointment, on account of loss of property or of additional security being required, become unable to make an affidavit of justification in accordance with the provisions of section 8 of this Act, this Act shall not be construed as rendering necessary the dismissal of the Sheriff from his office, but he shall, under pain of forfeiture of his office, be required to furnish such additional security as the Lieutenant-Governor in Council may in consequence of such inability consider requisite. R. S. O. 1877, c. 16, s. 10.

Further security may be given.

Death, insolvency, etc., of any surety.

11. Every Sheriff shall give notice in writing, to the Inspector of Legal Offices, of the death, discharge, bankruptcy, insolvency, or residence out of the Province, of any surety or person bound with him in such security, within one month after the fact comes to his knowledge; and in every such case the Sheriff shall furnish the security of a new surety, to be approved of as aforesaid, in lieu of the surety so dying, being discharged, becoming bankrupt or insolvent, or residing without this Province, and shall complete and transmit to the Inspector the necessary covenants or security and affidavits in that behalf, within one month after such notice. R. S. O. 1877, c. 16, s. 11; 47 V. c. 10, s. 16 (1, 2.)

Surety may withdraw at any time.

12. Any person who has become surety for a Sheriff, and who is no longer disposed to continue such responsibility, may give notice thereof to the Sheriff and to the Provincial Secretary, and in such case the Sheriff shall furnish the security of a new surety, in lieu of the surety so giving notice, and shall complete and transmit the necessary covenants or security and affidavits in that behalf to the Provincial Secretary, within one month after such notice; and all accruing responsibility on the part of the person giving such notice shall cease upon and after the perfecting and approval of the new security. R. S. O. 1877, c. 16, s. 12.

Forfeiture for neglect on the part of a Sheriff to furnish security.

13. Every Sheriff who neglects to give and furnish any of the securities, or to give any notice required by this Act, within the periods hereinbefore in that behalf respectively limited, shall be liable to forfeit his office, and his appointment and commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided under this Act, but such avoidance shall not annul or make

void any act or order or other matter or thing done by the Sheriff during the time he actually held office. R. S. O. 1877, c. 16, s. 13.

14. The Lieutenant-Governor in Council may remit the forfeiture in any case in which the failure to give the security or to perfect or transmit the instruments required by this Act, within the periods hereinbefore limited respectively in that behalf, has not arisen from the wilful neglect of the Sheriff, and if it appears to the Lieutenant-Governor that such respective periods are in any case insufficient in consequence of accident, casualty, loss of papers in the transmission thereof, illness or other particular circumstance, the Lieutenant-Governor in Council may allow such further period, not in any case exceeding two months, for perfecting and transmitting such securities as to him may appear reasonable and proper. R. S. O. 1877, c. 16, s. 14.

In what case forfeiture may be remitted.

15. The Lieutenant-Governor may approve of any security or securities, although the same may not have been perfected and transmitted respectively within the time limited by this Act, and in such case the office or commission of the Sheriff shall not be deemed to have been avoided by such default, but to have remained in full force and effect; and the securities, when approved of as aforesaid, shall be held and construed to be valid and effectual, in the same manner and to the same extent as if they had been perfected and approved respectively within the time limited by this Act. R. S. O. 1877, c. 16, s. 15.

Case of securities approved, although not perfected in time.

16. No neglect, omission or irregularity in giving or renewing any covenant or security required by this Act, nor in observing the formalities hereinbefore prescribed, or any of them, shall vacate or make void any such covenant or security, or discharge any party or surety from the obligations thereof. R. S. O. 1877, c. 16, s. 16.

Neglect, omission, etc., in giving bonds not to avoid them.

17. No such covenant or security shall be in anywise impaired, discharged or avoided, nor shall any Sheriff or any surety named therein be released, exonerated or acquitted from the obligation assumed thereby, by reason of the addition to the original area of the county to which it relates, of any other territory, or by the separation therefrom of any portion of such original area, by legislative authority or otherwise. R. S. O. 1877, c. 16, s. 17.

Addition to or diminution of territory to which bond relates, not to affect it.

18. Any person may examine the covenant of the Sheriff and his sureties, and the clerk in possession thereof shall, on demand, deliver to any person who desires the same a copy thereof, on payment of the following fees:

Examination of Sheriff's covenant allowed.

For search and examination of covenant...\$0 25

For copy of covenant.....\$1 00

R. S. O. 1877, c. 16, s. 18.

Liability of
sureties.

19. The said sureties shall be liable to indemnify the party or parties to any legal proceeding against any omission or default of the Sheriff in not paying over moneys received by him, and against any damage sustained by such party or parties in consequence of the Sheriff's wilful or neglectful misconduct in his office, and the Sheriff shall be joint defendant in any action to be brought upon such covenant. R. S. O. 1877, c. 16, s. 19.

Actions upon
the covenant
against Sheriff
for miscon-
duct, etc.

20. Any person sustaining damage by reason of such default or misconduct of a Sheriff may bring and maintain an action upon the covenant for such default or misconduct, and the action shall not be barred by reason of a prior recovery by the same party upon the same covenant, or of a judgment rendered for the defendant in a prior action upon the same covenant, or by reason of any other action being then depending upon the same, either at the suit of the same plaintiff or of any other party, for any other distinct cause of action. R. S. O. 1877, c. 16, s. 20.

Judgment
against sure-
ty where
liability dis-
charged in
part.

21. If upon the trial of an action upon such covenant or security it is made to appear that the plaintiff is entitled to recover, and that the amount which the surety has paid or become liable to pay, as hereinafter mentioned, is not equal to the full amount for which he became surety, the Court, after deducting from the full amount the sums which he has so paid or become liable to pay as aforesaid, shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety. R. S. O. 1877, c. 16, s. 21.

Sureties not
liable for more
than amount
stated in bond.

22. Where such surety actually and *bona fide* and of his own proper moneys and effects has paid or become liable by virtue of a judgment or judgments recovered against him upon his covenant to pay an amount equal to the amount specified on the covenant for which he became surety, the covenant shall as to him be deemed to be discharged and satisfied, and no other or further sum shall be recovered against him. R. S. O. 1877, c. 16, s. 22.

No more than
amount speci-
fied in coven-
ant, to be
recovered.

23. It shall be competent for any Court of Record in Ontario, upon proof, to the satisfaction of the Court, of such payment or liability, in a summary manner and at any stage of the cause, by stay of proceedings or otherwise, to prevent the recovery against such surety of any further sum than the amount specified in his covenant, and for which he may have become surety. R. S. O. 1877, c. 16, s. 23.

How the
amount shall
be levied.

24. Upon every writ of execution under a judgment recovered on such covenant, the plaintiff or his solicitor shall, by an endorsement on the writ, direct the Coroner or other officer charged with the execution of such writ to levy the amount thereof upon the goods and chattels of the Sheriff in the first

place, and in default of goods and chattels of the Sheriff to satisfy the amount, then to levy the same or the residue thereof of the goods and chattels of the other defendant or defendants in the writ, and so in like manner with any writ against lands and tenements upon a judgment on such covenant. R. S. O. 1877, c. 16, s. 24.

25. Notwithstanding a Sheriff may have forfeited his office and become liable to be removed therefrom by reason of his not having complied with the provisions of this Act, he shall nevertheless continue in his office to all intents and purposes, and the liability of himself and his sureties shall remain, until a new Sheriff has been appointed and sworn into office. R. S. O. 1877, c. 16, s. 25.

Sheriff forfeiting his office to act till his successor is appointed.

26. No Sheriff or Deputy Sheriff shall directly or indirectly keep a shop, or trade, or traffic, or sell or expose for sale, goods, wares or merchandise, either by wholesale or retail, or maintain an action for the price of any goods so sold, except only such as by the duties of his office he is legally commanded or empowered to sell. R. S. O. 1877, c. 16, s. 26.

Sheriffs, &c., not to trade.

27. No Sheriff, Deputy Sheriff, Bailiff or Constable, shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution. R. S. O. 1877, c. 16, s. 27.

Sheriff, &c., not to purchase at sales under execution.

28. Every Bailiff or Constable entrusted with the execution of any writ, warrant or process, mesne or final, who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the process may have issued, shall, upon conviction thereof before a Court of competent jurisdiction, be liable to fine and imprisonment in the discretion of the Court, and shall answer in damages to any party aggrieved by such misconduct or false return. 27-28 V. c. 28, s. 31.

Misconduct of Bailiff or Constable.

Damages.

29. The preceding two sections of this Act shall extend and apply to Coroners and Elisors employed in the service or executing of the process of the High Court, or of the County Courts. R. S. O. 1877, c. 16, s. 29.

Sections 27 and 28 to apply to Coroners and Elisors.

30. If a debtor in execution escapes out of legal custody of the Sheriff, Bailiff, or other person having the custody of such debtor, shall be liable only to an action for damages sustained by the person or persons at whose suit such debtor was taken or imprisoned, and shall not be liable to any other action in consequence of his escape. R. S. O. 1877, c. 16, s. 30.

Liability of Sheriff, &c., for escape.

Forfeiture of office for false return.

31. A Sheriff who wilfully makes any false return upon a writ or warrant of execution directed to him and placed in his hands for execution, unless by consent of both parties to the same, shall be liable to forfeit his office. R. S. O. 1877, c. 16, s. 31.

Endorsement of receipt of process; non-service; re-delivery to plaintiff; costs of service.

32. Upon the delivery of a writ of summons at the office of a Sheriff, to be served by him, he, his Deputy, or Clerk, shall endorse thereon the time when it was so delivered; and in case the writ is not fully and completely served within ten days after the delivery, the plaintiff, his solicitor or agent shall be entitled to receive back the same; and the Sheriff, Deputy Sheriff or Clerk shall endorse thereon the time of the delivery; and the costs of the mileage and service of the writ by a literate person afterwards shall, in case the person to be served was at any time during the ten days within the County, be allowed in the taxation of costs, as if the service had been by the Sheriff or his officer. R. S. O. 1877, c. 40, s. 95; c. 50, s. 23.

Failure by Sheriff to re-deliver.

33. If the Sheriff being applied to, neglects or refuses to return the writ, after the expiration of the ten days, the plaintiff may issue a duplicate or concurrent writ on the *precipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the Sheriff by the plaintiff or his solicitor. R. S. O. 1877, c. 40, s. 96; c. 50, s. 24.

Certificate as to executions.

34.—(1) Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a Sheriff, the Sheriff if so requested, shall include in one certificate any number of names in respect of which the certificate may be required in the same matter or investigation.

(2) The maximum fees payable to a Sheriff in respect to such certificate shall be \$4. 50 V. c. 7, s. 5.

Office hours.

35. Every Sheriff shall, each day, holidays excepted, keep his office open from ten o'clock in the forenoon until four in the afternoon, and during all that time he, his deputy or some clerk competent to do business for him, shall be present to transact the business of the office. R. S. O. 1877, c. 16, s. 34.

Certain books to be kept in Sheriff's office.

36. Every Sheriff shall keep in his office the following books, namely:

Process Books.

1. Process Books—in which shall be entered a memorandum of every process other than writs of execution, or writs in the nature of writs of execution, received by the Sheriff, the Court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor

by whom issued, the date of the return, and the nature of the return made thereto, or what was thereunder or therewith done respectively;

2. Execution Books—for goods and lands respectively, in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution, the Court out of which the same issued, the names of the parties thereto, the solicitor by whom issued, the date of return, and the nature of the return made thereto, or what was done thereunder or therewith; and Execution Books.

3. A Cash Book—in which shall be entered all cash received or paid away by the Sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at Courts, moneys levied under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment, the cause, matter or service in which, or on account of which, the same was received or paid away. R. S. O. 1877, c. 16, s. 35. Cash Book.

37. Every Sheriff shall keep a separate book, in which he shall enter from day to day, all fees and emoluments received by him, by virtue of his office, and also the several amounts disbursed by him, from day to day, for carrying on the work of his office; and shall on or before the fifteenth day of January, in every year, make, under oath to the Inspector of Legal Offices, a return of the aggregate amount of such fees and emoluments and of his disbursements respectively, during the previous year, up to and inclusive of the thirty-first day of December. 42 V. c. 5, s. 1; 47 V. c. 10, s. 16 (1, 2). Sheriff to keep an account of his fees.

38. It shall be the duty of every Sheriff to supply himself with the books in the preceding two sections mentioned; and the cost thereof shall be paid by the county of which he is Sheriff. R. S. O. 1877, c. 16, s. 36; 42 V. c. 5, s. 2. Books to be paid for by county.

39. Every Sheriff shall quarterly, and within twenty days after the expiration of each quarterly period, transmit to the Treasurer of the Province and to the Inspector of Legal Offices a just, true, and faithful account, to be verified upon oath, of all fines, penalties, and forfeitures which he has been required and commanded to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied; and every Sheriff shall pay over to the proper officer or person lawfully entitled to receive the same, the several sums collected by him, as aforesaid, within twenty days next after the period within which the same have been collected as aforesaid; and every Sheriff neglecting or refusing to transmit such quarterly account, or to pay over any such sum or sums of money Sheriff to make quarterly returns of fines, etc.
and pay over moneys.
Penalty for neglect.

so collected by him, within the period hereby prescribed, shall incur and be subject to the like penalty, and may be sued for the same in the same manner as is provided and declared with regard to Justices of the Peace neglecting or refusing to make the returns required by *The Act respecting Returns of Convictions and Fines by Justices of the Peace*. R. S. O. 1877, c. 16, s. 37; 47 V. c. 10, s. 16 (1, 3).

Duty of Sheriff as regards writs of Nisi Prius and attendance at Assizes, etc.

40. Every Sheriff shall execute and return before the Judge or Judges assigned to hold the Assizes or to execute any commission or to hold any Court of Assize and Nisi Prius, or of Oyer and Terminer and Gaol Delivery in his County, all precepts and writs of Nisi Prius and other jury process delivered to him or his Deputy, and shall give his attendance upon the Judge or Judges, as well for the returning of such "*tales de circumstantibus*" as may be prayed for the trial of issues, as for the maintenance of good order in Her Majesty's Courts, and for the doing and executing of all other things to the office of Sheriff in such case belonging. R. S. O. 1877, c. 16, s. 38.

Sheriffs before action for fees may serve notice of application to the Court for payment.

41. Before an action is commenced by a Sheriff for the recovery of a bill of fees chargeable against a solicitor, and after the expiration of one month from the service of the bill, the Sheriff may serve the solicitor with a notice of an application to the High Court, or to a Judge of a County Court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill; and the amounts claimed shall be stated in the notice. R. S. O. 1877, c. 16, s. 39.

Power of the Court or Judge and proceedings on return of the notice.

42. On the return of the notice, the Court or Judge may, without a reference, direct the payment to the Sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the Court or a Judge may order the bill and the demand thereon to be taxed by the proper officer of any of the said Courts, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the Sheriff and the solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the Court or Judge making the reference shall restrain the bringing of any action pending the reference; and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any portion thereof, in favour of either party, or may disallow any part thereof. R. S. O. 1877, c. 16, s. 40.

Execution for amount payable to the Sheriff.

43. The party entitled to payment may, at the expiration of eight days from the date of the order or of the certificate of the

taxing officer, as the case may be, sue out a writ or writs of execution for the amount ordered or certified to be payable to him. R. S. O. 1877, c. 16, s. 41.

44. Upon the separation of a Junior County from a Senior County, or upon the dissolution of a Union of Counties, the powers, functions and jurisdiction of the Sheriff of the Senior County over and within the Junior County shall remain unimpaired in respect of any writ of mesne or final process in any civil action or cause in his hands for service or execution at the time of the separation or dissolution, and in respect of any renewal of any such writ, and of any subsequent or supplementary writ of the same nature in the same action or cause. R. S. O. 1877, c. 16, s. 42.

45. In case a Sheriff dies, resigns his office, and his resignation is accepted, or is removed therefrom, the Deputy Sheriff by him appointed shall nevertheless continue the office of Sheriff and execute the same and all things belonging thereto in the name of the Sheriff so dying, resigning or being removed, until another Sheriff has been appointed and sworn into office; and the Deputy Sheriff shall be answerable for the execution of the office in all respects and to all intents and purposes whatsoever, during such interval as the Sheriff so dying, resigning or having been removed, would by law have been, if he had been living or continuing in office, and the security given to the Sheriff so deceased, resigning or being removed, by his Deputy Sheriff, and his pledges, as well as the security given by the said Sheriff under this Act, shall remain and be a security to the Queen, Her Heirs and Successors, and to all persons whatsoever, for the due and faithful performance of the duties of his office during such interval by the Deputy Sheriff. R. S. O. 1877, c. 16, s. 43.

46. All books, accounts, records, papers, writs, warrants, process, moneys and other matters and things in the possession or under the control of a Sheriff by virtue of, or appertaining to his office as Sheriff, shall be the property of the Government of this Province, and the same and every of them shall, immediately upon the resignation, removal from office, or death of a Sheriff, be, by the party in whose possession or control they may come or happen to be, handed over to and taken possession of by the successor in office of the Sheriff, or such person as the Lieutenant-Governor may appoint to receive the same. R. S. O. 1877, c. 16, s. 44.

47. No person, except the successor in office of the Sheriff so resigning, being removed, or dying, or the person so to be appointed by the Lieutenant-Governor as aforesaid, shall take have or hold any such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things; and any person having or holding any of the matters aforesaid shall

Provision in case of a dissolution of a Union of Counties.

Deputy Sheriff to continue office of Sheriff in case of death or resignation.

Obligation of sureties in such cases.

All books, etc., to be the property of the Government.

No one but the succeeding Sheriff to hold books, etc., on pain of fine and imprisonment.

Penalty.

forthwith on demand, deliver over the same and every of them to the succeeding Sheriff, or to the person so to be appointed as aforesaid; and, upon such person neglecting or refusing so to do, on conviction thereof before the Judge of the County Court of the County in which the offence occurs, he shall be liable to pay a penalty to and for the use of Her Majesty of not less than \$10, nor more than \$50, besides costs, for every day he so neglects or refuses: and in default of the payment of the penalty and costs, he shall be imprisoned in the County Gaol of the County in which the conviction takes place, for a period not exceeding three months, or until the penalty and all costs have been fully paid. R. S. O. 1877, c. 16, s. 45.

Proceedings
on removal,
etc., of Sheriff.
Duty of out-
going Sheriff.

48.—(1) Upon the removal of a Sheriff from his office or upon his resignation of the same, and upon the appointment of his successor, the outgoing Sheriff, or, in the event of the death of a Sheriff, the Deputy Sheriff shall forthwith make out and deliver to the new and incoming Sheriff a true and correct list and account, under his hand, of all prisoners in his custody, and of all writs and process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the incoming Sheriff the several matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming Sheriff, all prisoners, writs and process, and all records, books and matters appertaining to the said office of Sheriff.

Duty of in-
coming
Sheriff.

(2) The incoming Sheriff shall thereupon sign and deliver a duplicate of the list and account to the Sheriff going out of office, or to the Deputy Sheriff where the previous Sheriff has deceased, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned, and transferred to the incoming Sheriff, and from the further charge of the execution of the writs, process and other matter therein contained, without any writ of discharge or other writ whatsoever, and the incoming Sheriff shall thereupon stand and be charged with the prisoners, and also with the execution and care of the writs, process and other matters contained in the list and account, as fully and effectually as if the same writs and process had been handed over by indenture and schedule.

Penalty.

(3) In case an outgoing Sheriff, or, in the case of the death of the former Sheriff, a Deputy Sheriff refuses or neglects to make out, sign and deliver the list and account as aforesaid, and to hand over the process aforesaid in manner aforesaid, every Sheriff or Deputy Sheriff so neglecting and refusing shall be liable to make such satisfaction by damages and costs to the person aggrieved, as such person sustains by such neglect or refusal. R. S. O. 1877, c. 16, s. 46.

49. A Sheriff, after resigning office, or removal from office, or his heirs, executors or administrators, shall or may, at any and at all time or times thereafter, have the right and be at liberty to have access to, search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things which were formerly in his possession before his resignation or removal, and which, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding Sheriff, or the then Sheriff of the County, free of all costs, charges and expenses. R. S. O. 1877, c. 16, s. 47.

50. In case of the death, resignation or removal of a Sheriff, or of a Deputy Sheriff while there is no Sheriff, after he has made a sale of lands, but before he has made the deed of conveyance of the same to the purchaser, and whether the sale was under an execution or for arrears of taxes, the deed or conveyance shall be made to the purchaser by the Sheriff, or by the Deputy Sheriff who is in office acting as Sheriff as aforesaid, at the time when the deed or conveyance is made. R. S. O. 1877, c. 16, s. 48.

51. In the event of the death, resignation, or removal from office of a Sheriff after action brought by him as Sheriff, the action shall not abate, but may be continued in the name of his successor, to whom the benefit of all sureties given to the Sheriff in his official capacity shall enure. R. S. O. 1877, c. 68, s. 27.

52. The Lieutenant-Governor in Council may direct and appoint that any Sheriff not paid, wholly or in part, by salary, and whose income from the fees and emoluments of his office, as the same appears by the returns to the Lieutenant-Governor, or to any department of the Government for the year 1881, after deducting necessary disbursements, does not exceed the sum of \$500, may be paid annually a sum not exceeding \$400 per annum; and that any other Sheriff whose income, as aforesaid, does not exceed \$800 may be paid a sum not exceeding \$200 per annum. When the returns of any Sheriff are for a part of the year only, then the return for the year 1880 shall be taken instead of that for the year 1881, for the purpose of determining whether the fees and emoluments exceed the said sum in this section mentioned. 45 V. c. 11, s. 15.

SCHEDULE A.

(Section 2.)

OATH OF OFFICE.

County (or, United Counties) }
 of
 To wit :

I, *A. B.*, of , in the County of , Esquire, having been appointed Sheriff of the County (or United Counties) of , do swear that I will well, truly and faithfully perform and execute all the duties required of me under the laws of this Province pertaining to the said office of Sheriff, so long as I continue therein, and that I have not given directly or indirectly, or authorized any person to give, any money, gratuity or reward whatsoever for procuring the said office for me.

A. E.

Sworn before me at , in the County }
 of , the day of A.D. 18 . }
C. D.,

Judge of the County Court (or *J. P.* as the case may be) for the County (or United Counties) of

R. S. O. 1877, c. 16, Sched. A.

SCHEDULE B.

(Section 4.)

FORM OF COVENANT.

Know all men by these presents, That we, *A. B.*, Sheriff of the County (or United Counties) of , Esquire, *C. D.*, of , in the County of , and *E. F.*, of , in the County of , (when four sureties are given, the names of the other two to be inserted here in like manner), do hereby jointly and severally, for ourselves and for each of our heirs, executors and administrators, covenant and promise that the said *A. B.*, as Sheriff of the County (or United Counties) of , shall well and duly pay over to the person or persons entitled to the same, all such moneys as he shall receive by virtue of his said office of Sheriff, and that neither he nor his Deputy shall wilfully misconduct himself in his said office to the damage of any person being a party in any legal proceedings. Nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows, that is to say : Against the said *A. B.*, in the whole, \$ (the amount fixed by Order in Council) ; against the said *C. D.*, in the whole, \$ (the amount fixed by Order in Council) ; against the said *E. F.*, in the whole, \$ (the amount fixed by Order in Council. If more than two sureties, add the names and amounts here in like manner.)

In witness whereof, we have to these presents set our hands and seals this day of , in the year of our Lord 18 .

Signed, sealed and delivered }
 in the presence of
L. M.
N. O.

A. B. [L.S.]
C. D. [L.S.]
E. F. [L.S.]
 etc., etc.

R. S. O. 1877, c. 16, Sched. B.

SCHEDULE C.

(Section 4.)

AFFIDAVIT OF JUSTIFICATION.

County (or United Counties) }
 of }
 To wit :

I, *A. B.*, (follow the description given in the covenant), the principal svenantor in the annexed covenant named (or one of the sureties in the annexed covenant named), do make oath and say as follows :

1. That I am seised and possessed to my own use of real estate in Ontario of the actual value of _____ (the amount for which the party making the affidavit is liable by the covenant) over and above all charges upon or incumbrances affecting the same.

2. The said real estate consists of (describe the property).

3. I am worth \$ (the amount for which the party has become liable by the covenant), over and above my just debts.

4. My post office address is as follows : (insert the name of post office.)

A. B.

Sworn before me at _____, in the County }
 of _____, the day of _____ 18 ____ }

P. T.,

Judge of the County Court, or J. P. for the County (or United Counties)
 of (as the case may be).

R. S. O. 1877, c. 16, Sched. C.

CHAPTER 17.

An Act respecting Inquiries concerning Public Matters.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Whenever the Lieutenant-Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of this Province, or the conduct of any part of the public business thereof, or the administration of justice therein, and such inquiry is not regulated by any special law, the Lieutenant-Governor may, by the commission in the case, confer upon the Commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing (or on solemn affirmation if they be parties entitled to affirm in civil

Commissioners may be empowered to receive evidence on oath.

matters), and to produce such documents and things as the Commissioners deem requisite to the full investigation of the matters into which they are appointed to examine. R. S. O. 1877, c. 17, s. 1.

Power to compel attendance of witnesses.

2. The Commissioner or Commissioners shall then have the same power to enforce the attendance of witnesses, and to compel them to give evidence and produce documents and things, as is vested in any Court in civil cases; but no party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution. R. S. O. 1877, c. 17, s. 2.

Proviso.

Act to apply to matters connected with elections, and to attempts to corrupt members of Legislative Assembly.

3.—(1) This Act shall be deemed to include for inquiry as aforesaid matters connected with elections to the Legislative Assembly, and the proceedings in any such election; but no commission shall issue except where no petition has been presented complaining of the return within the time prescribed, or except where, if a petition has been presented, the proceedings thereon have terminated.

(2) This Act shall be deemed to apply also to any attempts, or alleged attempts, to corrupt the successful candidate at such elections, or members of the Legislative Assembly, after their election, and notwithstanding that the persons charged with such attempts may be liable to criminal prosecution in respect thereof, and notwithstanding that criminal proceedings against them may have been commenced or concluded. The commission may be issued authorising an inquiry into such attempts as aforesaid, and the commission need not minutely specify the particular matters of inquiry.

Rev. Stat. c. 11.

(3) The Legislative Assembly, upon the evidence taken under the commission being submitted to it, may take, under section 48 of *The Act respecting the Legislative Assembly*, or under any other authority belonging to the Assembly, such action as the Legislative Assembly deems proper, as fully as if such evidence had been given at the bar of the Assembly.

(4) No action shall be taken against any person so charged founded upon evidence given by any witness unless it appears that he had an opportunity of appearing before the Commissioner and cross-examining the witness either at the time that he was examined in chief or subsequently, and that he had also an opportunity of calling witnesses on his own behalf. 47 V. c. 4, s. 46.

CHAPTER 18.

An Act respecting the Publication of Official Notices.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. All advertisements, notices or publications, which, by any Act or law in force in this Province, are required to be given by the Provincial Government or any Department thereof, or by a Sheriff or other officer, or by any municipal authority, or by any officer, person or party whomsoever, shall be given in the *Ontario Gazette*, unless some other mode of giving the same be directed by law; and if in any Act in force in Ontario, of the late Province of Upper Canada, or of the late Province of Canada, and being within the legislative authority of the Legislature of this Province, any notice is directed to be given in the *Upper Canada Gazette* by authority, or in the *Canada Gazette*, the *Ontario Gazette* shall be understood to be intended. R. S. O. 1877, c. 18, s. 1.

Advertisements required by law shall be inserted in the *Ontario Gazette* unless another mode is directed.

2. Where Sheriffs' advertisements, and other legal and official advertisements (except lists of convictions by Justices of the Peace or other advertisements, the whole expense of which is payable by Counties), are required to be published in a newspaper other than the *Ontario Gazette*, they shall be published in such newspapers as the Lieutenant-Governor in Council from time to time directs. R. S. O. 1877, c. 18, s. 2.

Publication of legal and official advertisements.

3. Tenders for the publication of the lists of convictions, by Justices of the Peace and other legal and official advertisements the whole expense of which is payable by Counties, shall be publicly advertised for by the Council of the County, subject to such conditions, if any, as to circulation and other matters, as the Council may think just, and the contract shall be given to the newspaper making the lowest tender, on or subject to the said conditions, if any there be. R. S. O. 1877, c. 18, s. 3.

Tenders to be made for publication of advertisements paid for by Counties.

SECTION V.

PUBLIC DEPARTMENTS, REVENUE AND
PROPERTY.

1. *Revenue and Finance.*

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2. *Public Lands.*

- CHAP. 24.—SALE AND MANAGEMENT OF PUBLIC LANDS, p. 286.
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3. *Public Works.*

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5. *Agriculture and Arts.*

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1. REVENUE AND FINANCE.

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“ 22.—LAW STAMPS, p. 274.

“ 23.—LAND TAX IN ALGOMA AND THUNDER BAY, p. 279.

CHAPTER 19.

An Act respecting the Consolidated Revenue Fund of Ontario.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Upper Canada Grammar School Income Fund, and all moneys arising from investments made on account thereof, the income and revenue derived from the Upper Canada Grammar School Fund, the Upper Canada Grammar School Lands, the Upper Canada Building Fund, the Common School Fund and the Common School Lands, and all the fees and charges payable under and by virtue of chapter 22 of these Revised Statutes or the Acts therein mentioned, and all other duties, revenue and moneys whatsoever, of the Province of Ontario, over which the Legislature of this Province has, or hereafter may have, the power of appropriation, shall form one Consolidated Revenue Fund, to be called “The Consolidated Revenue Fund of Ontario,” to be appropriated for the public service of this Province, in the manner and subject to the charges hereinafter mentioned, R. S. O. 1877, c. 19, s. 1.

Consolidated
Revenue Fund
of Ontario,
of what com-
posed.

2. The Consolidated Revenue Fund shall be permanently charged with all the costs, charges and expenses incident to the collection, management and receipt thereof; such costs, charges and expenses being subject nevertheless to be reviewed and audited in the manner directed by any Act of the Legislature. R. S. O. 1877, c. 19, s. 2.

Permanent
charges.

Investment of
surplus.

3. The Lieutenant-Governor in Council may from time to time, in his discretion, invest any surplus of the Consolidated Revenue Fund not required for the public service, in the debentures or other public securities of the Dominion of Canada; and whenever the exigencies of the public service render it necessary or expedient to convert the same into money, shall sell and dispose of the same, first giving one month's notice of the intended sale in the *Official Gazette* of the Province of Ontario and of the Dominion of Canada, calling for tenders for the purchase of the stock or debentures in which the surplus is invested. R. S. O. 1877, c. 19, s. 3.

Securities,
etc., vested in
Treasurer of
Ontario by
virtue of his
office, to vest
in his suc-
cessors.

4. Where any security, obligation, debenture or covenant, or any interest in real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer of Ontario, by virtue of his office of Treasurer, such security, obligation, debenture or covenant, and any right of action in respect thereof, and all the estate, right or interest of the Treasurer in respect of such real or personal estate, effects or property upon the death, resignation or removal from office of the Treasurer, from time to time, and as often as the case happens and the appointment of a successor takes place, shall, subject to the same trusts as the same were respectively subject to, vest in the succeeding Treasurer by virtue of this Act, and shall and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the succeeding Treasurer as the same might have been proceeded on, assigned, transferred or discharged by the Treasurer to, with or in whom they were first given, transferred, made, or vested if he had continued to hold office. R. S. O. 1877, c. 19, s. 4; 47 V. c. 6, s. 1.

Assignment,
etc., of securi-
ties.

5. Every security, obligation, debenture, covenant or interest in real or personal estate, effects and property may in like manner as in the last section mentioned be proceeded on, assigned, transferred or discharged by and in the name of any member of the Executive Council of Ontario, acting under the authority of section 3 of *The Act respecting the Executive Council*. R. S. O. 1877, c. 19, s. 4; 47 V. c. 6, s. 2.

Rev. Stat. c.
13.

Application of
sect. 4.

6. Section 4 of this Act shall apply to every security, obligation, debenture or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer of Ontario, by virtue or on account of his said office, and shall transfer all the interest, rights and estate of the former Treasurer to the present Treasurer of Ontario, to be vested in him by virtue of his office and subject to the provisions of this Act. R. S. O. 1877, c. 19, s. 4; 47 V. c. 6, s. 3.

CHAPTER 20.

An Act respecting the Public Revenue, and Public Accountants.

REVENUE, s. 1.	Neglect to pay over moneys, ss. 16-19.
REVENUE OFFICERS, s. 2.	Loss of public money by malfeasance or gross neglect, s. 20.
COLLECTION OF THE REVENUE—	Unapplied public money to be returned to Treasurer, s. 21.
Officers, s. 3.	Penalties for taking or offering fees, s. 22.
Salaries to be in lieu of fees, s. 4.	Property in books, etc., s. 23.
Exemption of officers from certain duties, s. 5.	Other remedies of the Crown unimpaired, s. 24.
Oath of office, s. 6.	REMISSION OF DUTIES, TOLLS, ETC., ss. 25, 26.
Regulations, s. 7.	RECOVERY OF PENALTIES, s. 27.
Employment of officers, ss. 8, 9.	ADMINISTRATION OF OATHS, ss. 28, 29.
Office hours, ss. 10, 11.	
Statistics, s. 12.	
Mode of payment of public money, ss. 13, 14.	
LIABILITY OF REVENUE OFFICERS—	
Neglect to transmit accounts, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In this Act the words "Provincial Revenue" or "Revenue" shall mean and include all Provincial Revenue and branches thereof, and all public moneys, whether arising from the Crown Lands or Timber, or from tolls for the use of any public works, or from penalties or forfeitures, or from any rents or dues, or any other source whatsoever, in so far as the collection, management and accounting for the same are respectively subject to the control of the Provincial Legislature. R. S. O. 1877, c. 20, s. 1.

2. Any officer, functionary or person whose duty it is to receive moneys forming part of the Revenue, or who is entrusted with the custody or expenditure of such moneys, although he may not be regularly employed in collecting, managing or accounting for the same, shall be subject to the provisions of this Act, so far as regards the accounting for and

paying over such moneys, whatever be the office or employment by virtue of which he may receive or be entrusted with the same, R. S. O. 1877, c. 20, s. 2.

COLLECTION AND MANAGEMENT OF THE REVENUE.

Lieut.-Governor in Council shall determine what officers are necessary, and fix their salaries.

3. The Lieutenant-Governor in Council may from time to time determine what officers or persons it is necessary to employ in collecting, managing or accounting for the Provincial Revenue, and in carrying into effect the laws thereunto relating, or for preventing any contravention of such laws, and may assign their names of office, and grant to such officers or persons as aforesaid such salaries or pay for their labour and responsibility in the execution of the duties of their respective offices and employments as to the said Lieutenant-Governor in Council seems reasonable and necessary, and may appoint the times and manner in which the same shall be paid. R. S. O. 1877, c. 20, s. 3.

Salaries to be in lieu of all other emoluments.

4. The salary or pay allowed to such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorized disbursements, shares of seizures, forfeitures and penalties; and no officer or person, receiving a salary at or exceeding the rate of \$1,000 per annum, shall exercise any other calling, profession, trade or employment whatsoever with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except it be an office relating to the management and collection of the Revenue and the accounting for the same, and held by such officer or person with the permission of the Lieutenant-Governor in Council. R. S. O. 1877, c. 20, s. 4.

Revenue officers exempted from certain duties.

5. No officer or person regularly employed in the collection or management of the Revenue, or in accounting for the same, shall, while he remains such officer or so employed, be compelled to serve in any other public office or in any municipal or local office, or on any jury or inquest. R. S. O. 1877, c. 20, s. 5.

Officers to take an oath of office.

6. Every person appointed to any office or employment relative to the collection or management of the Revenue, or in accounting for the same, shall, at his admission to such office or employment, take the following oath before such officer as the Lieutenant-Governor may appoint to receive the same, that is to say:—

The oath.

“I, A. B., do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge by my appointment as _____, and that I will not require, take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, either directly or indirectly, for

any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my said office or employment, on any account whatever, other than my salary, or what shall be allowed me by law, or by order of the Lieutenant-Governor of this Province in Council ; So help me God."

R. S. O. 1877, c. 20, s. 6.

7.—(1) The Lieutenant-Governor in Council may, from time to time, make all such new divisions of the Province into districts or otherwise as are required with regard to the collection or management of the Revenue, and may assign the officers or persons by whom any duty or service relative to such purpose shall be performed within or for such district or division, and the place or places within the same where such duty or service shall be performed—and may make all such regulations concerning such officers and persons, and the conduct and management of the business to them entrusted, as are consistent with the law, and as he deems expedient for carrying it into effect, in the manner best adapted to promote the public good.

Lieutenant-Governor in Council may divide Province into Revenue Divisions.

(2) Any general regulation or order made by the Lieutenant-Governor in Council, for any purpose whatever for which an order or regulation may be so made under the provisions of this Act, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or parties concerned had been specially named therein.

General regulations, how to apply.

(3) A printed copy of any regulation or order of the Lieutenant-Governor in Council printed by the Queen's Printer, or a written copy thereof attested by the signature of the Clerk of the Executive Council, shall be evidence of such regulation or order; and any order in writing signed by the Provincial Secretary, and purporting to be written by command of the Lieutenant-Governor, shall be received in evidence as the order of the Lieutenant-Governor. R. S. O. 1877, c. 20, s. 7.

As to proof of regulations, orders, etc.

8.—(1) Every person employed on any duty or service relating to the collection or management of the Revenue, by the orders or with the concurrence of the Lieutenant-Governor in Council, (whether previously or subsequently expressed), shall be deemed to be the proper officer for that duty or service; and every act, matter or thing required by any law in force to be done or performed by, to or with any particular officer nominated for that purpose in such law, being done or performed by, to or with any person appointed or authorized by the Lieutenant-Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with such particular officer.

Persons employed with the concurrence of the Lieut.-Governor in Council to be deemed the proper officers.

Place for performance of acts required by law.

(2) Every act, matter or thing required by law to be done at any particular place within any district or division of this Province as aforesaid, being done at any place within such district or division, appointed by the Lieutenant-Governor in Council for the purpose, shall be deemed to be done at the particular place so required. R. S. O. 1877, c. 20, s. 8.

Officers employed in one branch may be employed in another.

9. Any officer or person employed in the collection, management or accounting for any branch of the Revenue, may be employed in the collection, management or accounting for any other branch thereof, whenever it is deemed advantageous for the public service so to employ him. R. S. O. 1877, c. 20, s. 9.

Hours of office and seasons for certain business, how appointed.

10. The Lieutenant-Governor in Council may, from time to time, appoint the hours of general attendance of the officers and persons employed in the collection and management of the Revenue, at their proper offices and places of employment; and may also appoint the times during such hours, or the seasons of the year, at which any particular parts of the duties of such officers or other persons shall be performed by them respectively; and a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices or places of employment. R. S. O. 1877, c. 20, s. 10.

Offices may be closed on holidays.

11. No officer employed in the collection of the Provincial Revenue shall be required to keep his office open on any holiday. R. S. O. 1877, c. 20, s. 11.

Lieutenant-Governor in Council may direct accounts to be kept for statistical purposes.

12. The Lieutenant-Governor in Council may direct any officer or person employed in collecting, managing or accounting for any branch of the Provincial Revenue, to keep any books or accounts which he deems it advisable to direct to be kept for the purpose of obtaining statistical information concerning matters of public interest, and may authorize and allow any necessary expense incurred for the purpose. R. S. O. 1877, c. 20, s. 12.

Public money to be paid to credit of the Treasurer through banks, etc. Certificates to be taken.

13. All public moneys, from whatever source of Revenue derived, and all moneys forming part of special funds administered by the Provincial Government, shall be paid to the credit of the Treasurer of the Province, through such banks or persons as the Lieutenant-Governor in Council may from time to time direct and appoint; And certificates of such deposit, in duplicate, shall be taken by the persons making the same, and transmitted, one to the Treasurer, and the other to the Department to which the payment relates. R. S. O. 1877, c. 20, s. 13.

14.—(1) The Lieutenant-Governor in Council may from time to time, appoint the times and mode in which any officer or person employed in the collection, management or accounting for any part of the Revenue, shall account for and pay over the public moneys which come into his hands, to the officer appointed to receive the same, and may determine the times, manner and form in which, and the officer by whom any licenses on which any duty is payable, are to be issued.

Lieutenant-Governor in Council to appoint the mode and times in which moneys shall be accounted for and paid over.

(2) Such accounts and payments shall be rendered and made by such officers respectively at least once in every three months. R. S. O. 1877, c. 20, s. 14.

LIABILITY OF PUBLIC ACCOUNTANTS AND REVENUE OFFICERS.

15. If any corporation, officer or person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the officer or department to whom he is hereby required to transmit the same, on or before the day hereby appointed for the transmission thereof, such corporation, officer or person shall for such refusal or neglect forfeit and pay to the Crown, for the public uses of this Province, the sum of \$100, to be recovered with costs, as a debt due to the Crown, and in any Court and in any way in which debts to the Crown can be recovered; and in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or other evidence, that such account, statement or return ought to have been transmitted by the defendant, as alleged on the part of the Crown, and the onus of proving that the same was so transmitted shall rest upon the defendant. R. S. O. 1877, c. 20, s. 15.

Penalty for not transmitting accounts.

Proof in action for recovery of penalty.

16.—(1) Where the Provincial Treasurer has reason to believe that any officer or person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands public money applicable to any purpose, and has not paid over or duly applied and accounted for the same, he may direct a notice to such officer or person, or to his representative in case of his death, requiring him within a time to be therein named, and not less than thirty nor more than sixty days from the service of the notice, to pay over, apply and account for such money to the Treasurer, or to the officer to be mentioned in the notice, and to transmit to him the proper vouchers that he has so done.

Notice to persons neglecting to pay over money received for public purposes.

(2) Such notice shall be served by the Sheriff of the District, or County where the service is made, or his Deputy, by delivering a copy to the officer or person to whom it is addressed, or leaving it for him at his usual place of abode; and the return of the Sheriff, with an affidavit of service, shall be conclusive evidence thereof. R. S. O. 1877, c. 20, s. 16.

Notice to be served by the Sheriff.

Proceedings
against persons
refusing
to comply
with notice.

Liability of
defendant
to costs.

17. If any officer or person fails to pay over, apply or account for such money, and to transmit the vouchers as aforesaid within the time limited by the notice served on him, the Provincial Treasurer shall state an account as between such officer or person and the Crown in the matter to which the notice relates, charging interest from the service thereof, and shall deliver a copy thereof to the Attorney-General, and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant as a debt due to the Crown, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; and the defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless he proves that, before the time limited in the notice, he paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper vouchers with the account, or unless he issued the same in a representative character, and is not personally liable for such money, or to render such account. R. S. O. 1877, c. 20, s. 17.

Proceedings
against persons
transmitting
accounts with-
out vouchers.

Defendant to
be liable to
costs.

18.—(1) Where such officer or person as aforesaid has transmitted an account either before or after notice as aforesaid but without vouchers or with insufficient vouchers for any sum for which he therein takes credit, the Provincial Treasurer may notify such officer or person, in the manner mentioned in section 16 of this Act, to transmit vouchers, or sufficient vouchers within thirty days after the service of the notice; and if the vouchers are not transmitted within that time, the Treasurer may state an account against such officer or person disregarding the sums for which he has taken credit, but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of the account to the Attorney-General, and the copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; but the defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless the vouchers by him transmitted within the time limited by the notice served on him, or before service, are found of themselves sufficient for his defence, and for his discharge from all sums demanded of him.

Service of
notice, and
Sheriff's re-
turn, etc.

(2) The notice shall be served and the Sheriff's return of service shall be of the like effect as provided in section 16 with regard to the notice therein mentioned. R. S. O. 1877, c. 20, s. 18.

Moneys be-
longing to Her
Majesty, not
paid over.

19. If at any time it appears clearly, by the books or accounts kept by or in the office, or by any officer or person em-

ployed in the collection or management of the Revenue or in accounting for the same, or by his written acknowledgement or confession, that such officer or person has by virtue of his office or employment received moneys belonging to Her Majesty, and amounting to a sum certain, which he has refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed, then upon affidavit of the facts, by any officer cognizant thereof, and thereunto authorized by the Lieutenant-Governor in Council, made before a Justice or Judge of any Court having jurisdiction in civil matters to the amount of the sum so ascertained as aforesaid, such Justice or Judge shall cause to be issued against and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such Court, if the bond given by him had been put in suit and judgment had been thereupon obtained in favour of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; and the writ or writs shall be executed by the Sheriff or other proper officer, and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if the judgment as aforesaid had been actually obtained. R. S. O. 1877, c. 20, s. 19.

Issue of execution.

20. If by reason of malfeasance, or gross carelessness or neglect of duty by any officer or person employed in the collection or management of the Revenue, or in collecting or receiving moneys belonging to the Crown, for the public uses of the Province, a sum of money is lost to the Crown, such officer or person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it. R. S. O. 1877, c. 20, s. 20.

Responsibility for losses arising from malfeasance or gross neglect, etc.

21. If any officer or person has received public money for the purpose of applying it to a specific purpose, and has not so applied it within the time or in the manner provided by law; or if any person having held any public office and having ceased to hold the same, has in his hands any public money received by him as such officer for the purpose of being applied to a specific purpose to which he has not so applied it,—such officer or person shall be deemed to have received such money for the Crown for the public uses of the Province, and may be notified by the Provincial Treasurer to pay such sum back to the said Treasurer, and the same may be recovered from him as a debt to the Crown, in any manner in which debts to the Crown may be recovered, and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied. R. S. O. 1877, c. 20, s. 21.

Unapplied public money to be payable back to the Treasurer on demand.

Recovery, if not so paid.

No officer to take any fee, etc., on pain of dismissal.

22. If any officer or any person acting in any office or employment connected with the collection and management of the Revenue or the accounting for the same, takes or receives, directly or indirectly, any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, from any person (not being an officer or person legally authorized to pay or allow the same), on account of anything done by him in any way relating to his office or employment, except such as he receives by order or with the permission of the Lieutenant-Governor in Council,—every officer or person so offending shall, on proof to the satisfaction of the Lieutenant-Governor, be dismissed from his office or employment; And if any person (not being an officer duly authorized to pay or allow the same) gives, offers or promises any such fee, perquisite, gratuity, or reward, such person shall, for every such offence, incur a penalty of \$400, which penalty shall be recoverable in any Court having jurisdiction in civil cases to a like amount. R. S. O. 1877, c. 20, s. 22.

Penalty on persons offering fees etc.

All books, etc., used in the collection and the management of the revenue to be the property of Her Majesty.

23. All books, papers, accounts and documents of what kind soever, and by whom and at whose cost soever the paper and materials thereof have been procured or furnished, kept by or used or received or taken into the possession of any officer or person employed or having been employed in the collection or management of the Revenue, or in accounting for the same, by virtue of his employment as such, shall be deemed to be chattels belonging to Her Majesty; and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to Her Majesty. R. S. O. 1877, c. 20, s. 23.

Nothing in this Act to impair other remedies of the Crown.

24. Nothing in this Act, nor any conviction for the contravention thereof, nor any conviction under any Statute of Canada, shall prevent, weaken or impair any remedy which the Crown has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of the Province, and in the possession of any officer or person whomsoever, by virtue of any other Act or Law, nor any remedy which Her Majesty or any other party has against the offender or his sureties, or against any other party whomsoever; but the conviction of such offender shall not be received in evidence in any action against him. R. S. O. 1877, c. 20, s. 24.

REMITTING DUTIES, FORFEITURES, ETC.

Lieutenant-Governor may remit duties, tolls, or forfeitures.

25.—(1) And whereas it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue, in cases where, without such relaxation, great public inconvenience or great hardship or injustice to individuals could not be avoided:—

Therefore, the Lieutenant-Governor, whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed or authorized to be imposed by any Act of the Provincial Legislature, or any forfeiture or pecuniary penalty imposed or authorized to be imposed by any such Act, for any contravention of the laws relating to the collection of the Revenue or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other person;—And such remission may be made by any general regulation or by any special order in any particular case, and may be total or partial, unconditional or conditional; and if conditional, and the condition be not performed, the order made in the case shall be null and void, and all proceedings may be had and taken as if it had not been made.

Remission may be made by general regulation or special order.

(2) A detailed statement of all remissions as aforesaid shall be annually submitted to the Legislative Assembly within the first fifteen days of each ensuing Session thereof. R. S. O. 1877, c. 20, s. 25.

Detailed statements of remissions to be annually submitted to the Legislature.

26. If the Lieutenant-Governor directs that the whole or any part of any penalty imposed by any law relating to the Revenue be remitted or returned to the offender, such remission or return shall have the same effect as a pardon has in the case of a criminal offence, and the offence for which the penalty is incurred shall thereafter have no legal effect prejudicial to the party to whom the remission is granted. R. S. O. 1877, c. 20, s. 26.

If penalty be remitted, the remission to have the effect of a pardon.

27. Her Majesty's Attorney-General for Ontario, or other law officer, may sue for and recover in Her Majesty's name any penalty or forfeiture imposed by any law relating to the Revenue before any Court or other judicial authority before which such penalty or forfeiture is recoverable under such law, or may direct the discontinuance of any action for such penalty, by whom or in whose name soever the same has been brought—and in such case, the whole of the penalty or forfeiture shall belong to Her Majesty for the public uses of the Province, unless the Lieutenant-Governor in Council allows, as he may if he sees fit, any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture has been recovered. R. S. O. 1877, c. 20, s. 27.

Attorney-General may sue for and recover penalties.

Application of penalties.

MISCELLANEOUS.

28. In all cases wherein proof on oath or by affirmation or declaration is required by any law relating to the collection or management of the Revenue or to the accounting for the same, or is necessary for the satisfaction or consideration of the Lieutenant-Governor in Council in any matter relating to the collection or management of the Revenue or to the accounting for

When an oath is necessary, it may be taken before officers appointed to receive same.

Affirmation
may be substituted for oath.

the same, and no person or officer is specially named as the officer or person before whom the same is to be made, it may be made before such officer or person as may be appointed by the Lieutenant-Governor to receive the same, and such officer and person shall administer the oath or affirmation, or receive the declaration; and in any case or class of cases, where an oath is required by this Act or by any law in force, in any matter relating to the collection or management of the Revenue or the accounting for the same, the Lieutenant-Governor in Council, if he deems it fit, may authorize the substitution for the oath of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as the oath would have done. R. S. O. 1877, c. 20, s. 28.

Testimony to
be given on
oath in inquiries
touching
revenue
matters.

29. Upon all examinations and inquiries made by order of the Lieutenant-Governor in Council, for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the Revenue, or the accounting for the same, or the conduct of officers or persons employed therein, and upon like examinations and inquiries made by any person or officer authorized by the Lieutenant-Governor in Council to make such examinations and inquiries, any person to be examined as a witness shall deliver his testimony on oath, to be administered to him by the officer or person making the examination or inquiry, who shall administer the same. R. S. O. 1877, c. 20, s. 29.

CHAPTER 21.

An Act to provide for the better Auditing of the Public Accounts of the Province.

TREASURY BOARD, s. 1.
 PROVINCIAL AUDITOR—
 Appointment, s. 2.
 Tenure of office, s. 3.
 Appointment of officers, s. 4.
 Regulations for conducting business of office, s. 5.
 Duties, ss. 6-8.
 ISSUE OF CHEQUES WITHOUT CERTIFICATE OF AUDITOR, ss. 9, 10.
 CERTIFYING ACCOUNTS, s. 11.
 PREPARATION OF PUBLIC ACCOUNTS, s. 12.
 FINANCIAL YEAR, s. 13.
 LOANS TO MEET FAILURE OF REVENUE FROM UNFORESEEN CAUSES, s. 14.

ALTERING DATE OF RETURNS, s. 15.
 AUDIT BY DEPUTY HEADS, ETC., s. 16.
 EXAMINATION OF VOUCHERS, s. 17.
 APPROPRIATION LEDGER, s. 18.
 DETERMINATION OF DIFFERENCES AS TO CHARGES AGAINST APPROPRIATIONS, s. 19.
 PAYMENTS IN EXCESS OF APPROPRIATIONS, s. 20.
 REPORTS BY AUDITOR, ss. 21-23.
 ACCOUNTS WHICH ARE TO BE EXAMINED BY AUDITOR, ss. 24-26.
 AUDITOR MAY EXAMINE ON OATH, s. 27.
 RECOVERY OF PUBLIC MONEYS, s. 28.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. For the purpose of reference and decision in regard to matters hereafter referred to it, a Treasury Board composed of three members of the Executive Council may be appointed by the Lieutenant-Governor, and the three members so appointed shall be the Treasury Board for the time being. 49 V. c. 4, s. 1.

2. For the more complete examination of the Public Accounts of the Province, and for the reporting thereon to the Legislative Assembly, the Lieutenant-Governor may, under the great seal of the Province appoint an officer to be called the Provincial Auditor of the Province, and such officer may be paid out of the Consolidated Revenue Fund of the Province, a salary of \$2,400 per annum. 49 V. c. 4, s. 2.

3. The Provincial Auditor shall hold office during good behaviour, but shall be removable for cause by the Lieutenant-Governor on address of the Legislative Assembly. 49 V. c. 4, s. 3.

4. The Lieutenant-Governor in Council shall, from time to time, appoint any officer, clerk or other person to be employed in the office of the Provincial Auditor subject to the provisions of any Act or Acts regulating the Civil Service of Ontario. 49 V. c. 4, s. 4.

Regulations for conducting business of office, how made.

5. The Provincial Auditor shall have power to make, from time to time, orders and rules for the conduct of the internal business of his office, and to promote, suspend or remove any officer, clerk or other person employed therein, and to prescribe regulations and forms for the guidance of principal and sub-accountants in making up and rendering their accounts for examination: Provided always, that all rules, regulations and forms shall be approved by the Treasury Board previously to the issue thereof. The rules and regulations shall be laid before the House of Assembly within the first ten days of the Session next after the date when the same have been approved by the Treasury Board. 49 V. c. 4, s. 5.

Cancelling debentures.

6. It shall be the duty of the Provincial Auditor and the Assistant Treasurer to examine and cancel debentures, or other Provincial securities representing any debt of the Province and which have been redeemed. 49 V. c. 4, s. 6.

Provincial Auditor to audit public accounts.

7. The Provincial Auditor shall examine, check, and audit all accounts of receipts and expenditure of public moneys, whether appertaining to the Province, or received or expended by the Province on account of or in trust for any other party or parties. 49 V. c. 4, s. 7.

Provincial Auditor to see that money is not expended without or in excess of appropriation.

8. The Provincial Auditor shall, subject to the exceptions hereafter provided for, see that no cheque issues for the payment of any public money, for which there is no direct legislative appropriation, or in excess of any portion of such appropriation the expenditure of which has been authorized by the Lieutenant-Governor in Council, and he shall report to the Lieutenant-Governor in Council through the Treasurer any case in which a department or sub-accountant has expended money out of the proceeds of any accountable warrant for any purpose for which there is no sufficient authority, or beyond the amount for which there is such authority. 49 V. c. 4, s. 8.

When only cheques may issue without certificate of Provincial Auditor.

9. No cheque for public money shall issue except upon the certificate of the Provincial Auditor that there is legislative authority for the expenditure, save only in the following cases:—

1. If, upon an application for a cheque, the Provincial Auditor has reported that there is no legislative authority for issuing it, then upon the written opinion of the Attorney-General, or in his absence the Deputy-Attorney General, that there is such authority, citing it, the Treasurer may authorize the Assistant Treasurer to prepare the cheque, irrespective of the Provincial Auditor's report;

2. If, when the Legislature is not in session an accident happens to any public work or building which requires an immediate outlay for the repair thereof, or any other occasion

arises when an expenditure not foreseen or provided for by the Legislature is urgently and immediately required for the public good, then upon the report of the Treasurer that there is no legislative provision, and of the Minister having charge of the service in question that the necessity is urgent, the Lieutenant-Governor in Council may order a special warrant to be prepared, to be signed by the Lieutenant-Governor for the issue of the amount estimated to be required, which shall be placed by the Treasurer to a special account, against which cheques may issue from time to time in the usual form, as they may be required;

3. In the absence of the Treasurer, or in the case of vacancy in the office of Treasurer, the Provincial Auditor is authorized to make the report;

4. If the Provincial Auditor has refused to certify that a cheque of the Treasurer may issue, on the ground that the money is not justly due, or that it is in excess of the authority granted by Council, or for any reason other than that there is no legislative authority, then upon a report of the case prepared by the Provincial Auditor and the Treasurer, the Treasury Board shall be the judge of the sufficiency of the Provincial Auditor's objection, and may sustain him or order the issue of the cheque in their discretion;

5. The Provincial Auditor shall countersign all cheques issued by the Treasurer, but before so countersigning he shall satisfy himself that the cheques are authorized under some one or other of the provisions of this section;

6. The Provincial Auditor shall keep a cheque record-book with each bank upon which cheques are drawn, in which shall be entered all bank cheques countersigned by him, giving the date of issue, the name of the party to whose order payable and the amount; and the Auditor shall initial the entry of each cheque countersigned by him, after satisfying himself that the entry is correct. 49 V. c. 4, s. 9.

10. It shall be the duty of the Provincial Auditor in all such cases to prepare a statement of all such legal opinions, reports of Council, special warrants, and cheques issued without his certificate and of all expenditure incurred in consequence thereof, which statement he shall deliver to the Treasurer, to be by him presented to the Legislative Assembly at the same time as the Public Accounts are presented. 49 V. c. 4, s. 10.

Statement by
Provincial
Auditor of
cheques, etc.,
issued without
his certificate.

11. No payment shall be authorized by the Provincial Auditor in respect of work performed, or materials supplied by any person in connection with any part of the public service of the Province, unless, in addition to any other voucher or certificate which may be required in that behalf, the officer, under whose special charge such part of the public service is, certifies that the work has been performed, or the materials

Accounts for
work, etc., to
be certified by
officer in
charge.

supplied, as the case may be, and that the price charged is according to contract, or, if not covered by a contract, is fair and just. 49 V. c. 4, s. 11.

Preparation of
public
accounts.

12. It shall be the duty of the Provincial Auditor to prepare and deliver to the Treasurer the Public Accounts to be annually laid before the Legislature. 49 V. c. 4, s. 12.

Financial
year.

13. The Public Accounts shall include the period from the first day of January to the thirty-first day of December in each year, which period shall constitute the financial year; all estimates submitted to the Legislature shall be for the services coming in course of payment during the financial year; and any sums appropriated by the Legislature for the services of the year, which may be unexpended on the thirty-first day of December, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to that day; and all balances of appropriations which remain unexpended after the twentieth day of January shall lapse and be written off. 49 V. c. 4, s. 13.

Temporary
loans to meet
failure of
revenue from
unforeseen
causes.

14. The Lieutenant-Governor in Council may also, from time to time, in case of exigency arising out of failure of the revenue from unforeseen causes, direct the Treasurer to effect any needed temporary loans, chargeable on the Consolidated Revenue Fund, in such manner and form, in such amounts, payable at such periods as the Lieutenant-Governor in Council may authorize; but such loans shall not exceed the amount of the deficiencies in the Consolidated Revenue Fund to meet the charges placed thereon by law, and shall not be applied to any other purposes whatever. 49 V. c. 4, s. 14.

Treasury
board may
alter date of
returns.

15. The Treasury Board may alter the period at or to which any accountant for public moneys, public officer, corporation or institution, is required to render any account or to make any return, whenever in their opinion the alteration will facilitate the correct preparation of the public accounts or estimates for the financial year, anything in any Act to the contrary notwithstanding. 49 V. c. 4, s. 15.

Audit by
deputy heads,
etc.

16. The deputy heads of the several departments, or the officers, clerks or other persons charged with the expenditure of public moneys, shall respectively audit the details of the accounts of the several services in the first instance, and be responsible for the correctness of the audit. 49 V. c. 4, s. 16.

Examination
of vouchers.

17. In conducting the examination of the vouchers relating to the appropriation of the grants for the several services sanctioned by the Appropriation Act of the year, or by an Act of the Legislature, the Provincial Auditor shall test the accuracy of the castings and computations of the several items of the vouchers; but if he is satisfied that the accounts bear evidence

that the vouchers have been completely checked, examined, and certified as correct in every respect, and that they have been allowed, and passed by the proper departmental officers, he may admit the same as satisfactory: Provided always, that if the Treasurer should desire any vouchers to be examined by the Provincial Auditor in greater detail, the Provincial Auditor shall cause such vouchers to be subjected to such a detailed examination as the Treasurer may think fit to prescribe. 49 V. c. 4, s. 17.

18. The Provincial Auditor shall keep an appropriation ledger, in which shall be entered the several supply grants comprised in the Appropriation Act for the year, against which shall be charged all authorized expenditure out of such appropriations. The Provincial Auditor shall furnish to each Department monthly a statement of the charges entered against the several appropriations belonging to such Department, and shewing the balance at the credit of the appropriation at the close of the month. Whenever an appropriation is exhausted, the Provincial Auditor shall at once notify the Department to which the appropriation belongs. The Provincial Auditor shall not sanction any further payments to be charged to such exhausted appropriation except as hereafter provided. 49 V. c. 4, s. 18.

Appropriation ledger.

19. Should a difference arise between the Provincial Auditor and any Department respecting the appropriation to which an authorized expenditure should be charged, such difference may by the Department be referred to the Treasury Board, and the Board shall determine in what manner and to what appropriation or account such expenditure shall be charged. 49 V. c. 4, s. 19.

Determination of differences as to charges against appropriations.

20. In any case where an appropriation is exhausted and the public interest or the urgent requirements of the public service necessitate further payments in excess of the appropriation, the head of the Department to which the appropriation belongs, or his Deputy, shall transmit to the Provincial Auditor the accounts for which payment is asked, with a special report as to the necessity of payment and the reasons why the appropriation is insufficient. The Provincial Auditor shall submit the accounts and departmental report to the Treasury Board, with such remarks either approving or disapproving of the payment as he may consider necessary. If the Treasury Board approve of the payment of the accounts the Provincial Auditor, upon being notified of such approval, shall authorize the issue of cheques therefor. 49 V. c. 4, s. 20.

Payments in excess of appropriations.

21. The Provincial Auditor shall report to the Treasurer, for the information of the Legislative Assembly, all over expenditures of appropriations as granted by the Supply Bill, citing the recommendation and explanations of the Department and the authority of the Treasury Board. 49 V. c. 4, s. 21.

Report of over expenditure.

Particulars which are to be mentioned in report of Provincial Auditor.

22. In reporting as hereinbefore directed for the information of the Legislative Assembly the result of the examination of the appropriation accounts, the Provincial Auditor shall call attention to every case in which it may appear to him that a grant has been exceeded, or that money received by a Department from other sources than the grants for the year to which the account relates has not been applied or accounted for according to the directions of the Legislature, or that a sum charged against a grant is not supported by proof of payment, or that a payment so charged did not occur within the period of the account, or was for any other reason not properly chargeable against the grant. 49 V. c. 4, s. 22.

Report by Provincial Auditor to Legislative Assembly.

23. If the Treasurer does not, at the time prescribed by this Act, present to the Legislative Assembly any report made by the Provincial Auditor on the appropriation accounts, or any other accounts, the Provincial Auditor shall forthwith present such report. 49 V. c. 4, s. 23.

Accounts which are to be examined by Provincial Auditor.

24. Besides the appropriation accounts of the grants of the Legislature, the Provincial Auditor shall examine and audit, if required to do so by the Treasurer, and in accordance with any regulations that may be prescribed for his guidance in that behalf by the Treasury Board, the following accounts, viz: the accounts of all receipts of revenues forming the Consolidated Revenue Fund of the Province; the accounts current with the several banks and financial agents of the Province; the accounts relating to the issue or redemption of loans, and any other public accounts which, though not relating directly to the receipts or expenditure of the Province, the Treasury Board may direct. 49 V. c. 4, s. 24.

Accounts to be submitted to Provincial Auditor.

25. The accounts which, by the last preceding section, the Treasurer is empowered to subject to the examination of the Provincial Auditor, shall be rendered to him by the Departments or officers directed so to do by the Treasurer; and the term "Accountant" when used in this and the following sections of this Act with reference to such accounts, shall be taken to mean the Department or officer that may be so required by the Treasurer to render the same; and every public officer into whose hands public moneys, either in the nature of revenue or fees of office, shall be paid by persons bound by law or regulation to do so, or by subordinate or other officers whose duty it may be to pay such moneys, wholly, or in part, into the account of the Treasurer, or to apply the same to any public service, shall, at such times and in such form as the Treasury Board shall determine, render an account of his receipts and payments to the Provincial Auditor; and it shall be the duty of the Clerk of the Executive Council to inform the Provincial Auditor of the appointment of every such officer. 49 V. c. 4, s. 25.

26. In all cases where the Provincial Auditor is required by the Treasurer to examine and audit the accounts of the receipt, expenditure, sale, transfer, or delivery of any securities, stamps, Canadian or other Government stock or annuities, provisions, stores, or other property belonging to the Province, he shall, on the examination of such accounts being completed, transmit a statement thereof, or a report thereon, to the Treasurer, who shall, if he thinks fit, signify his approval of such accounts: and the Provincial Auditor on receipt of such approval shall thereupon transmit to the accountant a certificate in a form to be from time to time determined by the Provincial Auditor, which shall be to the accountant a valid and effectual discharge from so much as he may thereby appear to be discharged from. 49 V. c. 4, s. 26.

27. The Provincial Auditor shall have full power and authority to examine any person on oath or affirmation on any matter pertinent to any account submitted to him for audit: such oath or affirmation may be administered by him to any person whom he may desire to examine. 49 V. c. 4, s. 27.

28. Every accountant, on the termination of his charge as accountant, or in the case of a deceased accountant his representatives, shall forthwith pay over any balance of public money then due to the Crown in respect of such charge to the public officer authorized to receive the same: and in all cases in which it shall appear to the Provincial Auditor that balances of public money have been improperly and unnecessarily retained by an accountant, he shall report the circumstances of such cases to the Treasurer, who shall take such measures as to him may seem expedient for the recovery by legal process, or by other lawful ways and means, of the amount of such balance or balances, together with interest, upon the whole or on such part of such balance or balances, for such period of time, and at such rate as to the Treasurer may appear just and reasonable. 49 V. c. 4, s. 28.

CHAPTER 22

An Act respecting Law Stamps.

LAW STAMPS TO BE UNDER THE CON- TROL OF THE EXECUTIVE GOVERN- MENT, s. 1.	CANCELLATION OF STAMPS, s. 16.
ISSUE OF STAMPS, ss. 2, 3.	FEES NOT MULTIPLES OF TEN CENTS INCREASED, s. 17.
FOR WHAT FEES TO BE USED, ss. 4-6.	SALE OF STAMPS, ss. 18-24.
AFFIXING STAMPS, ss. 7-11.	PENALTIES—
COURT TO TAKE NOTICE OF ABSENCE OF STAMP, s. 12.	For issuing writ, &c., without being duly stamped, s. 25.
PROVISIONS IN CASE OF OMISSION TO AFFIX STAMPS, ss. 13-15.	For not obliterating stamps, s. 26. Application of penalties, s. 27.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Executive
Government
to take charge
of fees payable
in stamps, etc.

1. The Executive Government of this Province shall take charge of the fees and charges hereinafter mentioned or referred to, and, under the provisions of this Act, shall have the absolute control and management thereof. R. S. O. 1877, c. 21, s. 1.

Issue of
stamps.

2. The Lieutenant-Governor may from time to time, by Order in Council, direct stamps to be prepared for the purposes of this Act, which stamps shall be of one kind but of different denominations, as convenience or the amount of the fees and charges hereinafter mentioned or referred to may from time to time require. R. S. O. 1877, c. 21, s. 2.

Form, etc., of
stamps.

3. The Lieutenant-Governor may, by Order in Council, direct of what design and form, and of what colour or colours, the stamps and the different denominations thereof shall be issued, and from time to time, as he finds or considers expedient, may alter or change the same. R. S. O. 1877, c. 21, s. 3.

For what pur-
poses stamps
shall be used
in Ontario.

4. The stamps shall be used in lieu and in payment of the fees and charges which form part of the Consolidated Revenue Fund, and are due and payable to the Crown upon legal proceedings under and by virtue of this Act or of any other Act or Acts whatsoever, either now or hereafter in force in Ontario, and under or by virtue of any Order in Council, rule or order of any Court, or proclamation heretofore made or issued, or hereafter made or issued under such Acts or any one or more of them. R. S. O. 1877, c. 21, s. 4.

5. All the said fees and charges shall, throughout this Act, be comprised in the word "fees" or "fee." R. S. O. 1877, c. 21, s. 5. What shall included in word "fees" or "fee."

6. No money shall be paid to or received by any Court, or any officer of any Court, for any such fee due and payable to the Crown. R. S. O. 1877, c. 21, s. 6. No money to be received for such fee.

7. No matter or proceeding whatever upon which a fee is due or payable to the Crown as aforesaid, shall be issued or shall be received or acted upon by any Court, or by any officer of any Court, until a stamp or stamps under this Act for the sum corresponding in amount with the amount of the fee so due or payable to the Crown as aforesaid, for, upon or in respect of such matter or proceeding, and in lieu of the sum so due and payable to the Crown, has or have been attached to or impressed upon the same. R. S. O. 1877, c. 21, s. 7. No proceedings on which such fees are payable to be valid until all dues are paid by stamps.

8. Every matter and proceeding whatever, upon which a fee is due or payable to the Crown as aforesaid, and which is not so duly stamped, shall, if not afterwards stamped under the provisions of this Act, be absolutely void for all purposes whatever. R. S. O. 1877, c. 21, s. 8. Proceedings not duly stamped to be void.

9. In all cases of search, examining and authenticating office copies of papers made by the solicitor, and in all other cases where it has not been customary to use in reference to such search, examination, authentication, matter or thing, any written or printed document or paper whereon the stamp could be stamped or affixed, the party or his solicitor, requiring such matter or thing so to be done, shall make application for the same by a short note or memorandum in writing, and a stamp or stamps to the amount of the fee so payable shall be stamped on or affixed to such note or memorandum. R. S. O. 1877, c. 21, s. 9. Cases of search, etc., provided for.

10. No sheriff or other officer or person shall serve or execute any writ, rule, order or proceeding, or the copy of any writ, rule, order or proceeding upon which any such fee or charge is due or payable, and which is not duly stamped under this Act, and every such service and execution contrary to this Act shall be void, and no recompense shall be allowed therefor. R. S. O. 1877, c. 21, s. 10. No unstamped process, etc., to be served.

11. No matter or proceeding which has been duly stamped for the purpose for which it has been used, shall be considered as stamped for any other purpose, in case another fee or charge is due or payable thereon for any other or further use of the same matter or proceeding. R. S. O. 1877, c. 21, s. 11. Another stamp required whenever another charge is due.

Court to take notice of want of stamp, though no objection is made.

12. The Court in which such matter or proceeding is, or is pending, which ought to be, but is not so duly stamped, shall not, nor shall any Judge or officer of such Court take or allow any matter or proceeding to be had or taken upon or in respect of such matter or proceeding, although no exception is raised thereto by any of the parties, until such matter or proceeding has been first duly stamped. R. S. O. 1877, c. 21, s. 12.

Court may allow stamps to be affixed on certain terms.

13. Any party to any matter or proceeding in any Court which ought to be, but is not so duly stamped, may apply to the Court in which such matter or proceeding is pending, or to any Judge having jurisdiction in the case, for leave to have the same duly stamped, and in case this Act has not been knowingly and wilfully violated, the application shall on payment of costs be granted for the duly stamping of such matter or proceeding with stamps of such amount beyond the fee due thereon as may be thought reasonable, not exceeding ten times the amount of the stamp. R. S. O. 1877, c. 21, s. 13.

Retro-active effect of order.

14. The affixing of such stamp or stamps, under any order made for that purpose, shall have the same effect as if the said matter or proceeding had been duly stamped in the first instance. R. S. O. 1877, c. 21, s. 14.

Affixing stamps to papers unstamped or insufficiently stamped.

15.—(1) Where the Inspector of Legal Offices, or any other officer inspecting legal offices under the authority of an order of the Lieutenant-Governor in Council, finds a paper or proceeding which should have had affixed to it law stamps, to be unstamped, or to be insufficiently stamped, he may require the officer to whom belonged the duty of seeing that the paper was properly stamped, to affix to every such paper or proceeding a stamp or stamps of a sufficient amount to make up the deficiency.

(2) The Inspector or other officer directing stamps to be affixed as aforesaid shall cancel the stamps so affixed in such manner as shall be directed by the Lieutenant-Governor in Council, and the affixing of such stamps by direction of the Inspector shall have the same effect as if the paper or proceeding had been duly stamped in the first instance. 48 V. c. 13, s. 31.

Cancellation of stamps.

16. In every case in which a stamp or stamps has or have, under this Act, been attached to or impressed upon any matter or proceeding, it shall be the duty of the officer who issues or receives such matter or proceeding, forthwith upon the issue or upon the receipt thereof, to cancel the same by perforation or in such other manner as the Lieutenant-Governor in Council may direct. R. S. O. 1877, c. 21, s. 15; 44 V. c. 5, s. 64 (13). See also Order in Council 14th of May, 1886.

17. All fees now payable or hereafter at any time to become payable shall be at the following rates: all fees up to ten cents shall be made and paid at ten cents; all from ten cents to twenty cents, at twenty cents; all from twenty cents to thirty cents, at thirty cents; and so in like manner all other fees which are not multiples of ten cents, shall be stated and payable at the multiple of ten cents next above the sum at which they are so stated; except that the charge for examining and authenticating office copies of papers, shall be, when the same do not exceed three folios, five cents; and for every three folios above the first three folios, an additional five cents; and for any number of folios less than three, above any number of folios divisible by three, the charge for such broken number shall be five cents. R. S. O. 1877, c. 21, s. 16.

Fees or dues to the Crown increased in certain cases.

Special provision as to charge for office copies.

18. The Provincial Treasurer shall procure the necessary stamps required under this Act, from time to time, as they may be required, and he shall keep an account of the numbers, denomination and amount thereof, and of the dates at which they are so procured and delivered. R. S. O. 1877, c. 21, s. 17.

Provincial Treasurer to procure stamps, etc.,

19. The Provincial Treasurer, upon payment to him of the proper amount, shall deliver such of the said stamps as may be from time to time required, and he shall keep an account of the number, denomination and amount thereof, according as he receives and delivers them. R. S. O. 1877, s. 21, s. 18.

and to issue the same.

20. The Provincial Treasurer shall, subject to the provisions hereinafter contained, allow to any person who takes at any one time stamps to the amount of \$5 or upwards, discount at the rate of five per centum. R. S. O. 1877, c. 21, s. 19.

Allowance to be made to purchasers.

21. The Lieutenant-Governor, by Order in Council, may however, if he deems it expedient, make arrangements with any person or persons for the sole sale of stamps to him or them in any locality, and for such time as may be thought expedient, at any rate of discount, not exceeding, however, the rate above stated, and in such case the Treasurer shall not issue any stamps to any other person in the locality specified in such Order in Council. R. S. O. 1877, c. 21, s. 20.

Lieutenant-Governor may make any person sole vendor of stamps in any locality.

22. The restriction as to the rate of discount contained in the preceding two sections shall not apply to the officer for the sale of law stamps at Osgoode Hall. 45 V. c. 11, s. 4.

Exception as to officer at Osgoode Hall.

23. In case an arrangement is so made with any person or persons for the sale of stamps, as under section 21 mentioned, such person shall be bound at all times to keep on hand such a supply of the different kinds of stamps during the time for which the arrangement lasts, as may be reasonably expected to be required of him; and he shall be

Obligations of vendors of stamps.

Penalty.

bound to sell the same to all persons who may demand the same upon payment to him of the amount or value of such stamps; and in case of any violation of any duty imposed by this section, he shall forfeit as a penalty to Her Majesty a sum not exceeding \$20, and shall further be liable for the damages sustained by any person through such violation of duty. R. S. O. 1877, c. 21, s. 21.

Allowance for stamps spoiled or returned.

24. The Lieutenant-Governor in Council may, from time to time, make such regulations as may be thought expedient, for an allowance for such stamps issued under this Act as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no immediate use, or which through mistake or inadvertence may have been improperly or unnecessarily used; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value to the owner or holder thereof, after deducting the discount (if any) allowed on the sale of stamps of the like amount. R. S. O. 1877, c. 21, s. 22.

Penalty for issuing, etc., any writ or proceeding without having it duly stamped.

25. Every person who knowingly issues, or knowingly receives, procures or delivers, or who knowingly serves or executes any writ, rule, order, matter or proceeding upon which any fee is due or payable to the Crown as aforesaid, without the same being first duly stamped under this Act, for the fee payable thereon, shall be subject for the first offence to a fine not exceeding \$10, for the second offence to a fine not exceeding \$50, and for the third and every subsequent offence to a fine of \$200; and in default of payment of such fines shall be subject to imprisonment for a period not exceeding one month for the first offence, three months for the second offence, and one year for the third and every subsequent offence. R. S. O. 1877, c. 21, s. 23.

Penalty for not properly obliterating stamps.

26. Every person who fails or omits to obliterate and cancel any stamp in the manner and at the time hereinbefore provided, shall be subject to a fine not exceeding \$20, and, in default of payment thereof, to imprisonment for a period not exceeding two months. R. S. O. 1877, c. 21, s. 24.

Application of fines.

27. All fines imposed by this Act shall be paid to the Provincial Treasurer, for the general uses of the Province, and shall be recovered before any Court having competent jurisdiction to the amount, at the instance of Her Majesty's Attorney-General for Ontario; and the production of any such writ, rule, order, matter or proceeding unstamped, or stamped for too low and insufficient a sum, or the stamp of which is not properly and sufficiently obliterated and cancelled, or the proof of any such writ, rule, order, matter or proceeding having been unstamped or not sufficiently stamped at the time when it was so issued or received, or served or executed as aforesaid, or of the

Proof of actions for fines.

stamp not having been properly and sufficiently obliterated and cancelled, shall be sufficient *prima facie* evidence of such writ, rule, order, matter or proceeding having been knowingly or wilfully so issued or received, or served or executed without being or having been first stamped, or without the stamp having been properly and sufficiently obliterated and cancelled. R. S. O. 1877, c. 21, s. 25.

CHAPTER 23.

An Act respecting the Taxation of Patented Lands in Algoma and Thunder Bay.

TAX OF ONE CENT IMPOSED—EXEMPTIONS, s. 1.	FEE FOR SEARCH IN REGISTRY OFFICE, s. 23.
SCHOOL TAX ON UNOCCUPIED LANDS, s. 2.	OWNER OF A SUB-DIVISION MAY PAY TAXES ON HIS PORTION, s. 24.
TREASURER MAY CANCEL TAXES IN CERTAIN CASES, s. 3.	REDEMPTION BY OWNER WITHIN A YEAR, s. 25.
LISTS OF LANDS LIABLE TO TAX TO BE FURNISHED BY COMMISSIONER OF CROWN LANDS, ss. 4, 5.	PURCHASER ENTITLED TO DEED IF LAND NOT REDEEMED, s. 26.
ACCOUNT OF TAXES TO BE KEPT BY TREASURER, ss. 6, 7.	DEED MAY BE EXECUTED BY SUCCESSOR OF TREASURER, s. 27.
PROVISION WHERE SEVERAL LOTS INCLUDED IN SAME PATENT, ss. 8, 9.	REGISTRATION OF DEED, s. 28.
LAND TO BE SOLD WHEN TAXES THREE YEARS IN ARREAR, s. 10.	RECORD OF SALES TO BE KEPT BY TREASURER, s. 29.
PROCEEDINGS BY TREASURER TO SELL LANDS, ss. 11-20.	WHERE TAXES PAYABLE, s. 30.
RIGHTS OF PURCHASER BEFORE TIME FOR REDEMPTION HAS EXPIRED, ss. 21, 22.	CERTAIN SECTIONS OF ASSESSMENT ACT TO APPLY, s. 31.
	NOTICE OF FORMATION OF SCHOOL SECTIONS, s. 32.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Except as in this section provided, an annual tax of one cent per acre to and for the public uses of this Province is hereby imposed on all lands granted or hereafter to be granted by the Crown, situate in the Provisional Judicial Districts of Algoma and Thunder Bay. R. S. O. 1877, c. 22, s. 1; 49 V. c. 5, s. 1.

(2) The lands embraced in the Municipality of Shuniah or in any other Municipality now existing in either of the said Districts, shall not be liable to the said tax. R. S. O. 1877, c. 22, s. 2.

An annual tax of one cent per acre imposed upon all lands granted.

Exemption from tax in existing municipalities.

Exemption
from tax in
future munici-
palities.

(3) No lands embraced in any Municipality which may hereafter be formed within the said Districts shall, after notice of the formation of the Municipality has been given to the Treasurer of the Province, be liable to the said tax, but the lands shall remain subject to all arrears then owing on account thereof; and the arrears when collected shall be the property of the Province. R. S. O. 1877, c. 22, s. 3.

Arrears.

Exemptions of
farming lands.

(4) All lands within the said Districts, which are occupied as farming lands and *bona fide* used for farm purposes, shall be exempt from the said tax.

Proof on claim
of exemption.

(5) No lands shall be entitled to the exemption provided for in this section, until the owner or other person claiming exemption, shall have furnished to the treasurer proof by affidavit or otherwise, that the lands in respect of which the exemption is claimed, were occupied for farming purposes as aforesaid, and shall have obtained the decision in writing of the Provincial Treasurer or Assistant Treasurer to the effect that such lands are entitled to exemption under the preceding sub-section.

Proof to be
furnished.

(6) The proof so furnished, shall be filed by the Treasurer in his office with a memorandum of his decision.

Limit of
exemption.

(7) No greater quantity of land than three hundred and twenty acres in the occupation of any one resident, shall be exempt, unless a larger quantity is in actual cultivation, in which case so much as is in actual cultivation shall be exempt 49 V. c. 5, s. 3.

Appropriation
of tax for
school
purposes.
Rev. Stat.
c. 225.

(8) In the case of patented lands in school sections formed under *The Public Schools Act*, the said tax shall, when collected be paid over by the Provincial Treasurer yearly to the trustees of the respective school sections entitled thereto. 49 V. c. 5 s. 7.

School tax on
unoccupied
lands.

Rev. Stat.
c. 225.

2. —(1) In addition to the tax provided by section 1 of this Act, a further tax of one cent an acre shall be imposed upon all unoccupied lands embraced in any school section formed under the authority of section 41 of *The Public Schools Act*, and for the information of the Treasurer in charging such tax upon the lands liable therefor, the secretary or secretary-treasurer of the school board shall, on the formation of a school section in any unorganized township, give written notice thereof to the Provincial Treasurer, and shall yearly, on or before the first day of August, furnish him with a list of all the lands embraced in the said school section, distinguishing such as are occupied from those that are unoccupied, and the said additional tax shall when collected be paid over annually to the trustees of the respective school sections in which such land is situate. No land so returned as unoccupied by the secretary-treasurer of the school board shall be subject to any school rates imposed by the trustees in the year in which they are so returned. 50 V. c. 4, s. 2.

(2) The said additional tax hereby imposed shall be subject to all the conditions as to penalty for default and provisions for collection as the tax imposed by section 1 of this Act. 50 V. c. 4, s. 2. Collection of additional tax.

3. The Treasurer may cancel the taxes charged on any land on proof being made to his satisfaction in manner aforesaid, that the land was, during the time for which the tax was imposed, occupied as farming lands, and *bona fide* used by the person claiming the benefit of this provision. 49 V. c. 5, s. 4. Treasurer empowered to cancel taxes in certain cases.

4. The Commissioner of Crown Lands shall, on or before the first day of April in each year, transmit to the Treasurer of the Province a list of all lands granted in the said Districts during the year ending on the thirty-first day of December then last past, specifying in the list the number or letter by which each lot or parcel of land is designated in the patent therefor, and when the lot or parcel of land is not designated in the patent therefor, by a number or letter, then defining the same by some general designation or description, indicating the locality thereof, and referring for a more particular description thereof to the patent therefor, and stating the date of the patent and the name of the grantee therein. R. S. O. 1877, c. 22, s. 4. List of granted lands to be furnished annually by the Commissioner of Crown Lands to Treasurer.

5. Every list shall be certified under the hand of the Commissioner of Crown Lands for the time being, or the Assistant-Commissioner, and shall contain a statement of the quantity of land contained in each lot or parcel of land so granted within the said Districts, and, for the purposes of this Act, the quantity specified in such list shall be held and regarded as the true and actual quantity or measurement of land contained in each such lot or parcel, and shall form the basis upon which the said tax or rate shall be computed. R. S. O. 1877, c. 22, s. 5. List to be signed by the Com. or Assistant-Com.

6. The Treasurer of the Province shall provide a book or books to be kept in his office, in which he shall after receipt by him of the said annual list, and between the first day of October and the thirty-first day of December in each year, enter and set down all the lands mentioned and specified in such list, and granted by the Crown during the year ending on the thirty-first day of December then last past, and shall enter opposite each lot or parcel the quantity of land contained in such lot or parcel, and also the amount of the tax against such lot or parcel for one year, computed at the rate of two cents per acre, which shall be, and shall be regarded as the tax imposed upon each such lot or parcel, for one year, ending on the thirty-first day of December then next; and each such lot or parcel shall thereupon be and become subject to the payment of the amount so set down against the same. R. S. O. 1877, c. 22, s. 6; 50 V. c. 4, s. 4. Treasurer to keep books in which lands and taxes to be entered.

Annual account to be kept against each lot, and ten per cent. added to arrears.

7. The Treasurer of the Province shall also, between the first day of January and the first day of April in every year, make up and ascertain, as against every lot or parcel of land so set down in his said book or books, the arrears of taxes, if any, owing thereon, on the thirty-first day of December in the preceding year, and still unpaid, and shall bring forward the same with ten per cent. added thereto; and he shall between the first day of October and the thirtieth day of December also ascertain and enter against the said lots or parcels respectively, the taxes payable for the year ending on the thirty-first day of December then next, and he shall add the said arrears, if any, and the said ten per cent. thereon, and the amount of the taxes for the said then current year together, and bring forward the total amount thereof in another column; which said last-mentioned amount shall constitute the taxes then owing upon every such lot or parcel of land under the authority of this Act. R. S. O. 1877, c. 22, s. 7; 50 V. c. 4, s. 5.

Payment, etc., where several lots included in one patent.

8. Where several lots or parcels of land are granted in one patent, it shall not be necessary, and shall not be held to have been necessary, to keep the amount owing in respect of each lot or parcel separately in the books of the Treasurer of Ontario, but each such lot or parcel shall be sold separately in case of a sale for arrears, and any owner shall be at liberty at any time to pay the taxes owing in respect of any of the lots or parcels mentioned in the patent. 45 V. c. 2, s. 2.

Provisions enabling owner of any lot included in patent with others to have a separate account of taxes kept for such lot.

9. In case any person claims to have bought a particular portion of a lot or parcel mentioned in the patent, he shall, upon producing, properly verified by affidavit or statutory declaration, the deeds shewing him to be entitled to the lands, and the quantity contained in such portion, for the inspection of the Treasurer, and paying up all arrears upon the lot or parcel, and not otherwise, be entitled to have such portion entered in the Treasurer's books separate from the rest of the lot or parcel, and the taxes in respect of such portion shall thereafter be kept separate from the taxes for the rest of the lot, and the same rule shall be observed in case of a further division of the lot, parcel or portion. 45 V. c. 2, s. 3.

Land to be sold when taxes in arrear for three years.

10. Whenever a portion of the taxes so ascertained, made up and entered as aforesaid, has been due for three years, the Treasurer of the Province may sell the land for the arrears of taxes then due thereon with costs. 49 V. c. 5, s. 10.

Treasurer to publish list shewing arrears.

11. Whenever a portion of the tax on any land has been due for three years, the Treasurer shall prepare a list of the lands on which taxes are so in arrear, shewing the amount of arrears due on each lot or parcel, and shall cause the list to be published twelve consecutive times in the *Ontario Gazette*, and for a like period in some newspaper published in the district in which

the land lies, if any such there be. The Lieutenant-Governor in Council shall have power from time to time to extend beyond the term of three years, the time for the enforced collection by sale of the said taxes. 49 V. c. 5, s. 11.

Lieut.-Governor may extend time for payment.

12. The advertisement shall contain a notification that unless said arrears are sooner paid, the Treasurer will proceed to sell the lands for taxes, on a day to be named in the advertisement. R. S. O. 1877, c. 22, s. 11; 49 V. c. 5, s. 9.

Notification of sale.

13. The day of sale shall not be less than three months, nor more than six months, after the first publication of the list in the *Ontario Gazette*. R. S. O. 1877, c. 22, s. 12.

Day of sale.

14. The Treasurer shall also post a notice similar to the advertisement on some convenient and public place, at the Court House of the District, at least three weeks before the time of the sale. R. S. O. 1877, c. 22, s. 13; 49 V. c. 5, s. 9.

Notice in Court House.

15. If, at the time appointed for the sale, no bidders appear, the Treasurer may adjourn the sale from time to time. R. S. O. 1877, c. 22, s. 14; 49 V. c. 5, s. 9.

If no bidders, sale may be adjourned.

16. The Treasurer shall in every case add to the arrears so published a proportionate share of the cost of publication, according to their amounts respectively. R. S. O. 1877, c. 22, s. 15; 49 V. c. 5, s. 9.

Cost of publication.

17. If the taxes are not previously paid or tendered, the Treasurer shall sell by public auction, on the day appointed for the sale, so much of the land as may be necessary and sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and collection of the taxes, selling in preference such part as he considers it most to the advantage of the owner to sell first. R. S. O. 1877, c. 22, s. 16; 49 V. c. 5, s. 9.

If taxes not previously paid, lands to be sold.

18. Where, at a sale of lands for arrears of taxes under this Act, the Treasurer fails to sell any land for the full amount of arrears due thereon, he shall at the sale adjourn the sale of the land until a day then to be publicly named by him not being earlier than one month nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the newspapers in which the original sale was advertised; and on such day he may sell the lands for any sum he can realize, and such sum shall be accepted as full payment of the arrears of taxes, but the owner of any land so sold shall not be at liberty to redeem the same except upon payment of the full amount of taxes due, together with the expenses of sale. 45 V. c. 2, s. 1; 49 V. c. 5, s. 9.

Proceedings when land does not sell for full amount of taxes.

19. If the purchaser of a parcel of land fails, on demand, to pay the Treasurer the amount of the purchase money, the Treasurer may forthwith again put up the property for sale, and sell the same. R. S. O. 1877, c. 22, s. 17; 49 V. c. 5, s. 9.

If purchase money not paid, lands to be put up again for sale.

Treasurer to give purchaser a certificate of the land sold.

20. The Treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land has been sold, and describing the same, and also stating the quantity of land sold, the sum for which it has been sold, and the expenses of the sale, and further stating that a deed conveying the same to the purchaser or his assigns will be executed by the Treasurer on his or their demand, at any time after the expiration of one year from the date of the certificate, if the land be not previously redeemed. R. S. O. 1877, c. 22, s. 18; 49 V. c. 5, s. 9.

Purchaser to be deemed the owner for certain purposes.

21. The purchaser shall, on receiving the Treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same, from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing on the land or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value. R. S. O. 1877, c. 22, s. 19; 49 V. c. 5, s. 9.

On tender by owner of taxes purchaser's rights to cease.

22. From the time of payment to the Treasurer of the full amount of the redemption money, required by this Act, the purchaser shall cease to have any further right in, or to use the land in question. R. S. O. 1877, c. 22, s. 20; 49 V. c. 5, s. 9.

The Treasurer may add fee for searching Registry Office.

23. If the Treasurer cannot give a sufficient description of any lands sold by him without a search in the Registry Office of the District, he shall, in addition to the charge hereinbefore authorized, be entitled to charge the fee for the necessary search. R. S. O. 1877, c. 22, s. 23; 49 V. c. 5, s. 9.

Owner of any subdivision may pay taxes on his portion, and such portion shall not be sold.

24. Where lands in either of the said Districts for which a patent has been or may hereafter be issued, have been subdivided, the owner of any portion thereof may tender and pay the Treasurer the arrears of taxes upon the portion of which he is owner, and the costs incurred in respect thereof, and thereupon such portion shall be exempted and withdrawn from sale. R. S. O. 1877, c. 22, s. 25; 49 V. c. 5, s. 9.

Owner may redeem within one year.

25. The owner of land which may be sold for taxes, under the provisions of this Act, for non-payment of taxes thereon, or his heirs, executors, administrators or assigns, may at any time within one year from the day of sale (exclusive of that day) redeem the land sold by paying to the Treasurer, for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per cent. thereon, and the Treasurer shall give the party paying such redemption money, a receipt stating the sum paid, and the object of payment, and the receipt shall be evidence of redemption. R. S. O. 1877, c. 22, s. 26; 49 V. c. 5, s. 9.

If not redeemed, purchaser entitled to a 600 G.

26. If the land be not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale, as aforesaid, then on the demand of the purchaser or

his assigns, or other legal representatives, at any time afterwards, and on payment of \$1, the Treasurer shall execute and deliver to him or them a deed of sale, in duplicate, of the land sold. R. S. O. 1877, c. 22, s. 27 ; 49 V. c. 5, s. 9.

27. Where, after a sale for arrears of taxes is made under this Act, the Treasurer by whom the sale was conducted dies, or ceases to hold office, before the execution of a deed of conveyance to the purchaser, such deed may be executed by the successor of such Treasurer. 45 V. c. 2, s. 5 ; 49 V. c. 5, s. 9.

In case of death, etc., of Treasurer, his successor may execute deed.

28. The Registrar or Deputy Registrar of the Registry Division in which the land lies, upon production of the duplicate deed, shall enter the same in the Registry Book, and give a certificate of such entry and registration, in accordance with *The Registry Act* ; but all deeds executed on or before the 31st day of December, 1877, may be registered in the manner theretofore in force. R. S. O. 1877, c. 22, s. 29.

Certificate to be given for registry, its effect, etc.

Rev. Stat. c. 114.

29. The Treasurer shall enter in a book, to be kept by him as Treasurer, a full description by metes and bounds of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries therein have been made by him, shall be kept by him amongst the records of his office. R. S. O. 1877, c. 22, s. 30 ; 49 V. c. 5, s. 9.

Treasurer to keep a record of all sales.

30. The taxes imposed by this Act shall be payable at the office of the Treasurer of the Province, in the City of Toronto ; and for the purpose of this Act shall be considered to be due and payable on the first day of October in every year ; but the Treasurer may appoint one or more agents, resident in the said Districts, to receive the taxes, or any part or portion thereof, and payment to the agent or agents so authorized shall be considered payment to the said Treasurer. R. S. O. 1877, c. 22, s. 31.

Taxes payable at Treasurer's office in Toronto, on 1st Oct., but agents may be appointed in Districts to receive the same.

31. Sections 170, 178, 183, 184 and 188 to 202 inclusive of *The Assessment Act* shall apply to sales by the Provincial Treasurer under this Act, and to the lands sold. 49 V. c. 5, s. 13.

Certain sections of Rev. Stat. c. 193 to apply to this Act.

[As to sales made before 25th March, 1886, see 45 V. c. 2, s. 6 ; 46 V. c. 4, s. 1.]

32. On the formation of a school section in any unorganized Township, the secretary of the school board shall give written notice thereof to the Provincial Treasurer, and shall also furnish him with a list of all the lands embraced in the said school section, distinguishing such as are occupied as farming lands from those that are unoccupied. 49 V. c. 5, s. 8.

Notice of formation of school sections.

2. PUBLIC LANDS.

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CHAPTER 24.

An Act respecting the Sale and Management of Public Lands.

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| <p>SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 CROWN LANDS DEPARTMENT, AND OFFICERS AND AGENTS CONNECTED THEREWITH, ss. 3-10.
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MISCELLANEOUS.

Notices in respect to Crown lands,
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sale, s. 41.

Affidavits for purposes of this Act,
before whom may be made, ss.
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records to be evidence, s. 45.

Non-observance of certain condi-
tions not to affect titles to lands
granted before 23rd April, 1860,
s. 46.

Sales and appropriations of water
lots declared to be legal, s. 47.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. This Act may be cited as "*The Public Lands Act*," R. S. O. Short title.
1877, c. 23, s. 1.

2. In the construction of this Act the term "Public Lands" Interpretation
shall be held to apply to lands heretofore designated or known of the term
as Crown Lands, School Lands, or Clergy Lands, which designa- "Public
tions, for the purposes of administration, shall still continue. Lands."
R. S. O. 1877, c. 23, s. 2.

CROWN LANDS DEPARTMENT.

3. There shall continue to be a Department for the manage- Department
ment and sale of the Public Lands and Forests, to be called and Commis-
"The Department of Crown Lands;" and the same shall be sioner of
presided over by "The Commissioner of Crown Lands" for Crown Lands.
the time being. R. S. O. 1877, c. 23, s. 3.

4. There shall continue to be an "Assistant Commissioner Assistant
of Crown Lands," who shall be appointed from time to time, Commissioner
as a vacancy occurs, by the Lieutenant-Governor in Council, of Crown
and shall perform such duties in the Department as may be Lands - his
assigned to him by the Lieutenant-Governor in Council, or the appointment,
Commissioner of Crown Lands, and shall preside over the duties and
Department and discharge therein the duties of the Commissioner oath of office.
of Crown Lands in the absence of that officer or in the case of
a vacancy in the office of Commissioner, and shall, before en-
tering on the duties of his office, take an oath faithfully to dis-
charge the same, which oath shall be administered by the Com-
missioner of Crown Lands, or any person appointed by the
Lieutenant-Governor for that purpose. R. S. O. 1877, c. 23, s. 4.

5. The Department and office of the Surveyor General of Departments
this Province shall continue to be consolidated with the De- of Surveyor-
partment and office of the Commissioner of Crown Lands, under General and
the superintendence and management of the last named officer. Commissioner
R. S. O. 1877, c. 23, s. 5. of Crown
Lands consoli-
dated.

Powers and duties of the Surveyor-General to be exercised and performed by the Commissioner of Crown Lands.

6. All the powers and duties which, before the seventeenth day of March, 1845, were assigned to or vested in the Surveyor-General, shall be vested in the Commissioner of Crown Lands; and the said powers and duties shall be exercised and performed by him, or by any assistants or clerks in his Department or office or by any person whom he by an instrument in writing under his hand, authorizes to that effect, and under such name or designation of office as he may fix, as effectually as they might before the said day have been exercised or performed by the Surveyor-General. R. S. O. 1877, c. 23, s. 6.

Appointment of officers and agents.

7. The Lieutenant-Governor may from time to time appoint officers and agents to carry out this Act and Orders in Council under it, which officers and agents shall be paid in such manner and at such rates as the Lieutenant-Governor in Council may direct. R. S. O. 1877, c. 23, s. 7.

Commissioner, Assistant Commissioner and agents to give security.

8. The Lieutenant-Governor in Council shall require from the Commissioner of Crown Lands and from the Assistant Commissioner, and from every agent appointed under him, security for the due performance of his duty. R. S. O. 1877, c. 23, s. 8.

Purchase, etc., by agent of land, etc., in his agency, forbidden.

9. No County or resident agent for the sale of Public Lands shall, within his division, directly or indirectly, unless under an Order of the Lieutenant-Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency, and any such purchase or interest shall be void; and if an agent offends in the premises, he shall forfeit his office and the sum of \$400 for every offence, to be recovered in an action by any person who may sue for the same. R. S. O. 1877, c. 23, s. 9.

Commissioner to report annually to the Legislature.

10. The Commissioner of Crown Lands shall annually lay before the Legislative Assembly, and within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the Department during the year then next preceding. R. S. O. 1877, c. 23, s. 10.

Lieutenant-Governor in Council may make orders for carrying out this Act.

11. The Lieutenant-Governor in Council may, from time to time, make such orders as are necessary to carry out the provisions of this Act according to their obvious intent, or to meet cases which may arise and for which no provision is made by this Act: and the orders shall be published in the *Ontario Gazette*, and in such newspapers as the Commissioner of Crown Lands may direct, and shall be laid before the Legislative Assembly within the first ten days of the session next after the date thereof; but no order shall be inconsistent with this Act, save that the powers herein given to the Commissioner of Crown Lands may be exercised by the Lieutenant-Governor in Council, and shall be subject to any Order in Council regulating or affecting the same from time to time. R. S. O. 1877, c. 23, s. 11.

Proviso.

12. Any claim to land arising under any Act, or under any Order in Council, or other regulation of the Government in force before the 23rd day of April, 1860, shall be determined by the Commissioner of Crown Lands, subject to such arrangement and order in respect to improvements on particular lands as the Commissioner may think just; or the same may be satisfied by issuing, to the party entitled, land scrip, or a certificate entitling him to purchase land to such an amount as the Commissioner of Crown Lands may find just; but no claim for land arising from Militia, United Empire Loyalist, or Military Rights, shall be entertained unless the same was actually located or admitted, or proof in support thereof, sufficient in the opinion of the Commissioner of Crown Lands, furnished before the passing, on the 14th of June, 1853, of the Act 16th Victoria, chapter 159. R. S. O. 1877, c. 23, s. 12.

Determination of claim arising under repealed Acts, Orders in Council, etc.

GRANTS, SALES AND LICENSES OF OCCUPATION AND ASSIGNMENT THEREOF.

13. The Lieutenant-Governor in Council may set apart and appropriate such of the Crown Lands as he may deem expedient for the sites of Wharves or Piers, Market Places, Gaols, Court Houses, Public Parks or Gardens, Town Halls, Hospitals, Places of Public Worship, Burying Grounds, Schools, and for purposes of Agricultural Exhibitions, and for other like public purposes, and for Model or Industrial Farms; and at any time before the issue of letters patent therefor, may revoke such appropriation as seems expedient; and may make free grants for the purposes aforesaid, and the trust and uses to which they are to be subject shall be expressed in the letters patent; but no grant shall be for more than ten acres in any one instance, and for any one of the purposes aforesaid, except for a Model or Industrial Farm, which shall not exceed one hundred acres. R. S. O. 1877, c. 23, s. 13.

Lands may be set apart for certain public purposes, and free grants thereof made in trust.

Provis.

14. The Lieutenant-Governor in Council may, from time to time, fix the price per acre of the public lands, and the terms and conditions of sale and of settlement and payment. R. S. O. 1877, c. 23, s. 14.

Lieut.-Gov. to fix price of public land per acre.

15. The Commissioner of Crown Lands may issue, under his hand and seal, to any person who has purchased or may purchase, or is permitted to occupy, or has been entrusted with the care or protection of any Public Land, or who has received or been located on any Public Land as a free grant, an instrument in the form of a license of occupation; and such person or the assignee, by an instrument registered under this or any former Act, providing for registration in such cases, may take possession of and occupy the land therein comprised, subject to the conditions of the license, and may thereunder, unless the same has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he

Licenses of occupation to be issued to intending settlers their effect.

could do under a patent from the Crown;—and the license of occupation shall be *prima facie* evidence for the purpose of possession by such person, or the assignee under an instrument registered as aforesaid, in such action, but the same shall have no force against a license to cut timber existing at the time of granting thereof. R. S. O. 1877, c. 23, s. 15.

Licenses of occupation, certificates, receipts and location tickets issued before 23rd April, 1860,—their effect.

16. Every license of occupation granted prior to the 23rd day of April, 1860, and every certificate of sale or receipt for money received on the sale of Public Lands, and every location ticket theretofore granted or made by the Commissioner of Crown Lands or any agent of his, so long as the sale or grant to which the license of occupation, receipt, certificate, or location ticket relates is in force, and not rescinded, shall have the same force, and shall enure to the benefit of the party to whom the same was granted, or to the assignee, by instrument registered as aforesaid, in the same manner and to the same extent as the instrument in the form of a license of occupation mentioned in the next preceding section. R. S. O. 1877, c. 23, s. 16.

Commissioner to keep a register of assignments of claims to lands; on what proof entries shall be made therein, their effect, etc.

17.—(1) The Commissioner of Crown Lands shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made as well by the original nominee, purchaser, locatee or lessee of Public Lands, or his heir or legal representative, as by any subsequent assignee of any such Public Lands or the heir or legal representative of such assignee; and upon the assignment being produced to the Commissioner, with an affidavit of due execution thereof, and of the time and place of such execution, and the names, residences and occupations of every witness thereto, the Commissioner shall cause the material parts of every such assignment to be registered in the book of registry, and shall cause to be endorsed on every such assignment a certificate of registration, to be signed by himself or by the Assistant Commissioner, or by any officer of the Department by him authorized to sign such certificates.

First registered assignment to be valid.

Proviso.

(2) Every assignment so registered shall be valid against one previously executed, and unregistered or subsequently registered; but all assignments to be registered must be unconditional, and all the conditions of the sale, grant or location must have been complied with, or dispensed with by the Commissioner of Crown Lands, before registration is made.

On what proof assignment may be registered when witness dead or absent.

(3) If a subscribing witness to an assignment is deceased, or has left the Province, the Commissioner may register the assignment upon the production of an affidavit proving the death or absence of the witness and his hand-writing, or the hand-writing of the party making the assignment. R. S. O. 1877, c. 23, s. 17.

18. Where the proper officer or officers having by law the power or authority to make or execute deeds on sales of lands for taxes have heretofore made or executed, or hereafter make or execute any deed purporting to grant, sell or convey any land or portion of land, the fee of which is in Her Majesty, or purporting to grant, sell or convey the interest therein of a locatee or purchaser from the Crown, and the deed recites, or purports to be based upon a sale for taxes of the land or interest, the Commissioner of Crown Lands may act upon and treat the deed as a valid transfer of all the right and interest of the locatee or purchaser from the Crown, and of every person claiming under him, in or to such land or portion of land to the grantee named in the deed, and may cause a patent for the land to be issued to the grantee on completion of the original conditions of location for sale, unless the deed is questioned before a Court of competent jurisdiction by some person interested in the land within two years from the time of sale, and unless notice of the deed being so questioned, within the time aforesaid, is given to the Commissioner of Crown Lands. R. S. O. 1877, c. 23, s. 18.

Deeds executed by the proper officers for sales of lands for taxes may be acted upon by the Commissioner of Crown Lands.

19. The preceding section shall not apply to a deed based or purporting to be based upon a sale for taxes made prior to the 1st day of January, in the year 1868. R. S. O. 1877, c. 23, s. 19.

Sect. 18 not to apply to certain deeds for lands sold for taxes.

20. The preceding two sections shall not interfere with the authority of the Commissioner of Crown Lands under this Act to cancel the original sale, grant or location of any such land. R. S. O. 1877, c. 23, s. 20.

Sects. 18 and 19 not to affect the power of the Commissioner to cancel sales, etc.

21. On an application for a patent by the heir, assignee or devisee of the original nominee of the Crown, the Commissioner of Crown Lands may receive proof in such manner as he may direct and require in support of any claim for a patent when the original nominee, or any one claiming under him, is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same and cause a patent to issue accordingly: But nothing in this section shall limit the right of the party claiming a patent to make his application at any time to the Commissioners under *The Act respecting the Heir, Devisee and Assignee Commission*. R. S. O. 1877, c. 23, s. 21.

Commissioner may receive proof in support of claim for patent by heir, etc., of deceased nominee.

Power to apply to Heir and Devisee Commissioners under Rev. Stat. c. 27, reserved.

FORFEITURE OF CLAIMS.

22. If the Commissioner of Crown Lands is satisfied that a purchaser, grantee, locatee or lessee of Public Land, or any assignee claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, grant, location or lease, or of the license of occupation, or if such sale, grant, location or lease or license of

Sale, etc. of land may be cancelled in case of fraud or error.

occupation has been or is made or issued in error or mistake, he may cancel such sale, grant, location, lease or license, and resume the land therein mentioned, and dispose of it as if no sale, grant, location or lease thereof had ever been made. R. S. O. 1877, c. 23, s. 22.

Mode of obtaining possession, if settler refuses to deliver up land on revocation of license, etc.

23. Where a purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale, grant, location, lease or license, of occupation thereof as aforesaid, or when a person is wrongfully in possession of public land and refuses to vacate or abandon possession of the same, the Commissioner of Crown Lands may apply to the County Judge of the County in which the land lies for an order for possession, and the Judge, upon proof to his satisfaction that the right or title of the party to hold the land has been revoked or cancelled as aforesaid, or that he is wrongfully in possession of Public Land, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Commissioner of Crown Lands, or person by him authorized to receive the same; and the order shall have the same force as a writ of possession; and the Sheriff, or Bailiff or person to whom the same may be entrusted for execution by the Commissioner of Crown Lands, shall execute the same in like manner as he would execute a writ in an action for the recovery of land. R. S. O. 1877, c. 23, s. 23.

RENT IN ARREAR.

Commissioner or other officer may issue distress warrant for rent in arrear;

24. Where rent payable to the Crown on a lease of Public Lands is in arrear, the Commissioner of Crown Lands, or an agent or officer appointed under this Act and authorized by the Commissioner of Crown Lands to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last mentioned cases; or an action may be brought therefor in the name of the Commissioner of Crown Lands, but demand of rent shall not be necessary in any case. R. S. O. 1877, c. 23, s. 24.

Or action may be brought.

PATENTS ISSUED IN ERROR.

Erroneous patents may be cancelled.

25. Where a patent has been issued to or in the name of the wrong party, through mistake in the Crown Lands Department, or contains any clerical error or misnomer, or wrong description of the land thereby intended to be granted, the Commissioner of Crown Lands (there being no adverse claim) may direct the defective patent to be cancelled and a correct one to be issued in its stead, which corrected patent shall relate back to the date of the one so cancelled, and have the

same effect as if issued at the date of such cancelled patent.
R. S. O. 1877, c. 23, s. 25.

26. In all cases in which grants or letters patent have issued for the same land inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Commissioner of Crown Lands may, in cases of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, or, when the original grant or appropriation was a free grant, he may in substitution assign land or grant a certificate entitling the party to purchase Crown Lands, of such value and to such extent as to him, the Commissioner of Crown Lands, seems just and equitable under the circumstances; but no claim shall be entertained unless it is preferred within five years from the discovery of the error. R. S. O. 1877, c. 23, s. 26.

Compensation in case of double or inconsistent grants.

Proviso.

27. Where by reason of false survey or error in the books or plans in the Crown Lands Department, any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Commissioner of Crown Lands may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of a deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, as he, the Commissioner of Crown Lands, may direct; or in case of a free grant, he may order a grant of other land equal in value to the land so intended as a free grant at the time the grant was made; but no claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted. R. S. O. 1877, c. 23, s. 27.

Compensation for deficiency of land by reason of false survey or error in departmental books or plans.

Proviso.

28. Compensation awarded under the preceding two sections of this Act (except where land is specifically assigned therefor by the Commissioner of Crown Lands) and all claims therefor shall be treated as personal estate, and dealt with accordingly. R. S. O. 1877, c. 23, s. 28.

Compensation under ss. 26 and 27 to be personalty—Except, in certain cases.

29. In case of a patent for land being repealed or avoided by the High Court, the judgment shall be registered in the registry office of the registry division in which the land lies. R. S. O. 1877, c. 23, s. 29 (1).

Registration of judgments.

REDUCTION IN PRICE OF CERTAIN LANDS SOLD BEFORE 1ST JULY, 1867.

Reduction in the price of lands sold by the Crown beyond their fair value.

30. The Lieutenant-Governor in Council shall have authority to reduce the price of any Crown Lands, Clergy Land, Common or Grammar School Land sold by the Crown previously to the 1st day of July, in the year 1867, where it appears that such land has been sold at a price beyond its fair value, and that the price remains unpaid. R. S. O. 1877, c. 23, s. 30.

Abatement of interest.

31. The Lieutenant-Governor in Council shall also have authority to make such abatement as may appear equitable and just, of the arrears of interest upon the unpaid instalments of the purchase money of any Crown Land, Clergy Land, Common or Grammar School Land sold by the Crown previously to the 1st day of July aforesaid; but the reductions and abatements shall be made only in respect of, and in proportion to, the share or interest of this Province in the lands, and the price thereof, and shall not in anywise extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof. R. S. O. 1877, c. 23, s. 31.

Inspection of lands.

32. Before the reduction or abatement as aforesaid is made, the land in respect of which the reduction or abatement is proposed shall be examined and valued by one or more inspector or inspectors, appointed for that purpose by the Lieutenant-Governor in Council, or by the Commissioner of Crown Lands. R. S. O. 1877, c. 23, s. 32.

Persons entitled to a reduction.

33. The reduction and abatement shall be confined to cases in which the purchaser from the Crown or person claiming under him is in occupation of the land, and is an actual settler thereon, or on land adjacent thereto. R. S. O. 1877, c. 23, s. 33.

Authority of Commissioner of Crown Lands to make reduction.

34. The Lieutenant-Governor may, by Order in Council, confer upon the Commissioner of Crown Lands authority to make the reduction or abatement as aforesaid, subject to the provisions of this Act, and subject also to such other provisions, not inconsistent with this Act, as may be embodied in an Order in Council. R. S. O. 1877, c. 23, s. 34.

ANNUAL LISTS OF LANDS GRANTED, ETC., BY THE CROWN.

Assessment of unpatented lands.

35. Public lands for which no patents have issued, but which have been sold, leased, located as free grants or appropriated to any person, or for which licenses of occupation have been granted, shall be liable to assessment in the municipalities in which they respectively lie, from the date of the sale, lease, location, appropriation or license; and a purchaser at the sale of such lands for taxes shall have in the lands so sold the same rights only as the person entitled to claim under the Crown at the time of such sale. R. S. O. 1877, c. 23, s. 35, *part.*

36. The Commissioner of Crown Lands shall in the month of February in every year transmit to the treasurer of every county a list of all the land within the county patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a license of occupation issued during the preceding year, and the Commissioner of Crown Lands shall in like manner apprise every treasurer of the cancellation of any license of occupation, or of any sale, lease, license, location, or appropriation from which time until again sold, leased, located, appropriated or placed under license, the land affected shall cease to be liable to taxes. R. S. O. 1877, c. 23, ss. 35 (*part*), 36; 48 V. c. 8.

Annual lists of lands granted, etc., to be furnished by Commissioner of Crown Lands to County Treasurers.

37. The Provincial Secretary shall, once in every three months, furnish to the Registrar of every Registry Division, a statement containing a list of the names of all persons to whom patents have issued from the Crown for grants of land within the registry division since the former statements, and of all persons whose patents have been cancelled since the former statements, and with such general or particular descriptions as the case may require; and the Commissioner of Crown Lands shall furnish copies of all plans or maps of towns and townships within the registry division which have not been already furnished, and in cases where no proper survey of any Township has been made he may cause a proper survey and plan thereof to be made and furnished. R. S. O. 1877, c. 23, s. 37.

Provincial Secretary to furnish Registrar with statement of Crown grants once every three months.

Maps to be furnished by Commissioner of Crown Lands.

OFFENCES AND PENALTIES.

38. No person holding an office created by or continued under this Act (save in the case provided for in section 9,) or employed in the Department, shall, while holding such office or employment, directly or indirectly purchase any right, title or interest in any public land, or any land scrip, nor deal nor traffic in the same, either in his own right, or by the interposition of any other person, or in the name of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment; and any person offending in the premises shall forfeit his office or employment, and be liable to a penalty of \$400, to be recovered by action by any person suing for the same. R. S. O. 1877, c. 23, s. 38.

Employees of the Crown Lands Department not to traffic in public lands or take fees.

Penalty.

39. If an agent, appointed or continued in office under this Act, knowingly and falsely informs, or causes to be informed, any person applying to him to locate or purchase any land within his division and agency, that the same has already been located, assigned or purchased, or refuses to permit the per-

Penalty on agent knowingly giving false information, etc.

son so applying to purchase the same, or (where entitled), to locate the same, according to existing regulations, such agent shall be liable therefor to the person so applying, in the sum of \$5 for each acre of land which the person so applying offered to locate or purchase, to be recovered by action in any Court of Record having jurisdiction to the amount. R. S. O. 1877, c. 23, s. 39.

MISCELLANEOUS.

How notices
required to
be given in
respect of
Crown Lands.

40. Where by law or by deed, lease or agreement relating to any lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Commissioner of Crown Lands. R. S. O. 1877, c. 23, s. 40.

Lists of pub-
lic lands for
sale to be
published.

41. The Commissioner of Crown Lands shall cause lists of the Public Lands for sale in the several Townships in Ontario to be made out from time to time, and advertised and published as he deems most advisable for ensuring general information. R. S. O. 1877, c. 23, s. 41.

Before whom
affidavits under
this Act
may be made.

42. Affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in the Crown Lands Department, may be taken before the Judge or Clerk of any County Court, or any Justice of the Peace, Notary Public, or any Commissioner for taking affidavits in the High Court, or the Commissioner of Crown Lands, or any agent of the Commissioner of Crown Lands, or the Assistant Commissioner of Crown Lands, or any Surveyor duly licensed and sworn, appointed by the Commissioner of Crown Lands to inquire into or take evidence or report in any matter submitted or pending before such Commissioner; or if made out of the Province, before the Mayor or Chief Magistrate of, or the British Consul in, any City, Town or other Municipality. R. S. O. 1877, c. 23, s. 42; 48 V. c. 16, s. 1.

Commissioner
of Crown
Lands may
issue commis-
sions of
inquiry.

43. The Commissioner or the Assistant Commissioner of Crown Lands may authorize, by a commission under the hand and seal of the Commissioner or Assistant Commissioner, any person who is employed in the service of the Crown Lands Department, to take affidavits and affirmations in any part of Ontario, in respect of any matter or inquiry having reference to any business of the Department, or of any matter or inquiry in respect of which the Department is interested, or which affects the revenue of Ontario. R. S. O. 1877, c. 23, s. 43.

Duration of
such commis-
sions.

44. The authority granted by virtue of any commission under the preceding section, may be limited to a certain period of time, or may be expressed to be while the commissioner receiving authority under the commission remains in the

service of the department; but the same shall in any event determine upon the commissioner ceasing to be employed in such service. R. S. O. 1877, c. 23, s. 44.

45. Copies of records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Commissioner or of the Assistant Commissioner, shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence. R. S. O. 1877, c. 23, s. 45.

Attested copies of departmental records, etc., to be evidence.

46. With a view to remove doubts, and to quiet the titles to certain lands granted before the 23rd of April, 1860, it is enacted, that the non-observance and non-fulfilment of the condition imposed in and by certain patents issued for Public Lands, of taking the oaths which may have been before the said date prescribed in case of any subsequent sale, conveyance, enfeoffment or exchange, by the patentee, and of recording such oaths, within twelve months after having taken possession, in the office of the Provincial Secretary, or of performing certain settlement duties, shall not affect in any way the patent or title of any patentee, or of any subsequent purchaser or proprietor. R. S. O. 1877, c. 23, s. 46.

Patent or title of patentee or of any subsequent purchaser not affected by non-observance of certain conditions.

47. It has been heretofore, and it shall be hereafter lawful for the Lieutenant-Governor in Council to authorize sales or appropriations of land covered with water in the harbours, rivers and other navigable waters in Ontario, under such conditions as it has been, or it may be, deemed requisite to impose, but not so as to interfere with the use of any harbour as a harbour, or with the navigation of any harbour, river or other navigable water. R. S. O. 1877, c. 23, s. 47.

Sales and appropriations of water lots declared to be legal.

CHAPTER 25.

An Act respecting Free Grants and Homesteads to Actual Settlers on Public Lands.

SHORT TITLE, s. 1.

FREE GRANTS LIMITED, s. 2.

FREE GRANTS TO ACTUAL SETTLERS,
ss. 3-15.

Territory defined, s. 4.

To whom made, and amount of
grant, ss. 5, 6.Affidavit of locatee to obtain
grant, s. 7.When locatee entitled to patent,
s. 8.Settlement duties to be performed,
s. 9.Timber and minerals reserved, ss.
10, 11.Payments to patentees of part of
dues, s. 12.Crown may grant timber licenses
over Free Grant lands, ss.
13-15.

ALIENATION BY LOCATEE—

Not before patent issued, s. 16.

To be by deed of locatee and his
wife jointly, s. 17.Statements to be made in patent,
s. 18.RIGHTS OF WIDOW OF LOCATEE, s.
19.EXEMPTION OF LAND FROM LIABILITY
FOR DEBTS OF LOCATEE, ss. 20, 21.SETTLER'S HOMESTEAD FUND, s.
22.REMISSION OF SUMS DUE BY FORMER
SETTLERS IN CERTAIN FREE
GRANT TOWNSHIPS, ss. 23-24.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.
Rev. Stat.,
c. 24.

1. This Act may be cited as "*The Free Grants and Homesteads Act*," and shall be taken and read as part of *The Public Lands Act*. R. S. O. 1877, c. 24, s. 1.

Free grants
limited.
Rev. Stat. c.
24.

2. Except as hereinafter and in sections 12 and 13 of *The Public Lands Act* provided, no free grant of Public Land shall be made, but patents may issue for all lands located as free grants before the 28th day of February, 1868, under section 13 of *The Public Lands Act* of 1860, as if this Act had not been passed. R. S. O. 1877, c. 24, s. 2.

Free grants
may be made
to actual set-
tlers.

3. The Lieutenant-Governor in Council may appropriate any Public Lands considered suitable for settlement and cultivation, and not being mineral lands or pine timber lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council not inconsistent with the provisions of this Act. R. S. O. 1877, c. 24, s. 3.

Free grants
to be confined
to lands with-
in certain
territory.

4. Such grants or appropriations shall be confined to lands surveyed or hereafter to be surveyed, situate within the tract or territory composed of the Districts of Algoma, Thunder Bay

Rainy River and Nipissing, and of the lands lying between the Ottawa River and the Georgian Bay to the west of a line drawn from a point opposite the south-east angle of the Township of Palmerston, north-westerly along the western boundaries of the Townships of North Sherbrooke, Lavant, Blithfield, Adnaston, Bromley, Stafford and Pembroke to the Ottawa River, and to the north of the rear or northerly boundaries of the Townships of Oso, Olden, Kennebec, Kaladar, Elzevir, Madoc, Marmora, Belmont, Dummer Smith, Ennismore, Somerville, Laxton, Carden, Rama, and of the River Severn. R. S. O. 1877, c. 24, s. 4; 48 V. c. 20; 49 V. c., 19 s. 1.

5. The person to whom any land may be allotted or assigned under the regulations for a free grant thereof shall be considered as located for the said land within the meaning of this Act, and is hereinafter called the locatee thereof. Locatee defined. R. S. O. 1877, c. 24, s. 5.

6. No person shall be located for any land under this Act or the regulations, unless he is of the age of eighteen years or upwards, nor shall any person be so located for a greater quantity than two hundred acres. Who may be located, and for what quantity of land. R. S. O. 1877, c. 24, s. 6.

7.—(1) Before a person is located for any land as aforesaid he shall make an affidavit, to be deposited with the agent authorized to make the location, stating that he has not been located for any land under this Act or under the regulations, and, that he is of the age of eighteen years or upwards, (and in the case of a female that she is the sole head of a family having children under eighteen years of age residing with her) and believes the land for which he applies, or desires to be located is suited for settlement and cultivation, and is not valuable chiefly for its mines, minerals or pine timber, and that the location is desired for his benefit, and for the purpose of actual settlement and cultivation of the land, and not either directly or indirectly for the use or benefit of any other person, nor for the purpose of obtaining, possessing, or disposing of any of the pine trees growing or being on the land, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon. Affidavit of person desiring location. 43 V. c. 4, s. 1.

(2) Provided always, that any person who has obtained a patent under this Act may, on shewing by affidavit that he has *bona fide* and absolutely parted with the land so patented, obtain another location. Second location may be obtained. 47 V. c. 7, s. 1.

8. No patent shall issue for land located under this Act or under the regulations until the expiration of five years from the date of the location, nor until the locatee or those claiming under him or some of them have performed the Patent not to issue before expiration of five years.

Settlement duties required.

following settlement duties, that is to say: have cleared and have under cultivation at least fifteen acres of the said land, (whereof at least two acres shall be cleared and cultivated annually during the five years next after the date of the location, to be computed from such date,) and have built a house thereon fit for habitation at least sixteen feet by twenty feet, and have actually and continuously resided upon and cultivated the said land for the term of five years next succeeding the date of the location, and from thence up to the issue of the patent, except that the locatee shall be allowed one month from the date of the location to enter upon and occupy the land, and that absence from the land for in all not more than six months during any one year (to be computed from the date of the location) shall not be held to be a cessation of residence, provided the land be cultivated as aforesaid, R. S. O. 1877, c. 24, s. 8.

Location to be forfeited if settlement duties not performed.

9. On failure in performance of the settlement duties aforesaid, the location shall be forfeited, and all rights of the locatee or of any one claiming under him in the land, shall cease. R. S. O. 1877, c. 24, s. 9.

Reservation of timber and mines.

10. Pine trees growing or being upon land located or sold within the limits of the Free Grant territory after the 5th day of March, 1880, and gold, silver, copper, lead, iron or other mines or minerals shall be considered as reserved from the location, and shall be the property of Her Majesty, except that the locatee, or purchaser, or those claiming under them, may cut and use such pine trees as may be necessary for the purpose of building and fencing on the land so located, and may also cut and dispose of all trees required to be removed in the actual clearing of the land for cultivation, but no pine trees (except for the necessary building and fencing as aforesaid) shall be cut beyond the limit of such actual clearing; and pine trees cut in the process of clearing, and disposed of, shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or saw-logs. 43 V. c. 4, s. 2.

Reservation in patents.

11. The patents for all lands located or sold as aforesaid shall contain a reservation of all pine trees standing or being on the lands, which pine trees shall continue to be the property of Her Majesty; and any person now or hereafter holding a license to cut timber or saw logs on such lands, may at all times during the continuance of the license enter upon the uncleared portion of such lands, and cut and remove such trees and make all necessary roads for that purpose, and for the purpose of hauling in supplies doing no unnecessary damage thereby, but the patentees or those claiming under them may cut and use such trees as may be necessary for the purpose of building and fencing on the lands so patented, and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation,

but no pine trees (except for necessary building and fencing as aforesaid) shall be cut beyond the limit of the actual clearing; and all pine trees so cut and disposed of shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or sawlogs. 43 V. c. 4, s. 3.

12. The patentee, his heirs or assigns, of land located or sold under this Act after the 5th day of March, 1880, shall be entitled to be paid out of the Consolidated Revenue of the Province on all pine trees cut on such land subsequent to the thirtieth day of April next after the date of the patent, and upon which dues have been collected by the Crown, the sum of twenty-five cents on each thousand feet, board measure, of saw-logs, and three dollars on each thousand cubic feet of square or waney pine timber, and the Lieutenant-Governor in Council is to make regulations for ascertaining and determining the persons from time to time to receive the payments and the sums to be paid. 43 V. c. 4, s. 4.

Payment by Crown to patentees of part of dues.

13. Nothing contained in this Act or in *The Free Grants and Homestead Act of 1868*, or in the Act passed in the thirty-seventh year of Her Majesty's reign, and chaptered 23, or in any other Act passed by the Legislature of this Province, or within its legislative authority, shall be held to have in any way restricted or to restrict the authority of the Commissioner of Crown Lands to grant licenses to cut timber on lots located or sold under *The Free Grants and Homestead Act of 1868*, or under this Act, and on the contrary it is hereby declared that the Commissioner, ever since the passing of *The Free Grants and Homestead Act of 1868*, had under chapter 23 of the Consolidated Statutes of Canada, intituled *An Act respecting the Sale and Management of Timber on Public Lands*, under chapter 26 of *The Revised Statutes of Ontario, 1877*, and now has under chapter 28 of these Revised Statutes, full authority to grant licenses to cut timber on lots located or sold under *The Free Grants and Homestead Act of 1868*, or under this Act. R. S. O. 1877, c. 24, s. 11.

Acts relating to free grants not to affect powers of the Commissioner of Crown Lands to grant timber licenses on lots located in Free Grant territory.

31 V. c. 8.

14. Every license heretofore issued whether the same has expired or is still current, and every license which may be hereafter issued to cut timber within the limits of any territory appropriated as Free Grant Territory, shall be deemed to have been and to be good and valid in all respects whatsoever, for the period for which the same was or may be granted, notwithstanding the patent for lands included therein may in the meantime have been issued; and every license shall be taken to have conferred, and to confer upon the holder thereof, the right to cut timber on the lands included therein until its expiration, whether the lands were or are located or sold under the said Act, or were or are unlocated or unsold, subject however to the conditions, regulations and restrictions specially applicable to the said Free Grant Territory, or to the said

Licenses heretofore granted confirmed.

lots so sold or located as may have been heretofore or may be hereafter made by the Lieutenant-Governor in Council in respect of the payment of timber dues or otherwise, and subject also to the exceptions or restrictions contained in the license; but no license shall confer the right to cut any other than pine timber upon lands which have been located or sold in the said territory prior to the date of the license unless the location or sale has been heretofore or is hereafter cancelled. R. S. O. 1877, c. 24, s. 12.

Act not to apply to cases adjudicated before 2nd March, 1877, or pending on 28th Dec., 1876.

Land not to be alienated, etc., before issue of patent.

15. The next preceding two sections shall not apply to any case adjudicated upon by any Court of this Province, on the 2nd day of March, 1877 or to any case that was pending on the 28th day of December, 1876. R. S. O. 1877, c. 24, s. 13.

16. Neither the locatee, nor any one claiming under him, shall have power to alienate (otherwise than by devise) or to mortgage or pledge any land located as aforesaid, or any right or interest therein before the issue of the patent. R. S. O. 1877, c. 24, s. 14.

After issue of patent, alienation, etc., to be by deed of locatee and wife jointly.

17. No alienation (otherwise than by devise), and no mortgage or pledge of the land, or of any right or interest therein by the locatee after the issue of the patent, and within twenty years from the date of the location, and during the life-time of the wife of the locatee, shall be valid or of any effect, unless the same be by deed in which the wife of the locatee is one of the grantors with her husband, nor unless such deed is duly executed by her. R. S. O. 1877, c. 24, s. 15.

Patents to state date of location, etc.

18. Every patent to be issued for land located as aforesaid shall state in the body thereof the name of the original locatee of the land, and the date of the location, and that the patent is issued under the authority of this Act. R. S. O. 1877, c. 24, s. 16.

On death of locatee widow to have estate during her widowhood. Widow may elect to have her dower.

19. On the death of the locatee, whether before or after the issue of the patent for land so located, all his then right and interest in and to the land shall descend to and become vested in his widow during her widowhood in lieu of dower, in case there be a widow surviving the locatee; but the widow may elect to have her dower in the land in lieu of the provision aforesaid. R. S. O. 1877, c. 24, s. 17.

Exemption from liability for debt before issue of patent.

20.—(1) No land located as aforesaid, nor any interest therein, shall in any event be or become liable to the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issuing of the patent for the land.

Exemption after issue of patent.

(2) After the issuing of the patent for any land, and while the land or any part thereof, or interest therein, is owned by the locatee or his widow, heirs or devisees, such land, part or interest, shall during the twenty years next after the date

of the location be exempt from attachment, levy under execution, or sale for payment of debts, and shall not be or become liable to the satisfaction of any debt or liability contracted or incurred before or during that period, save and except a debt secured by a valid mortgage or pledge of the land made subsequently to the issuing of the patent. R. S. O. 1877, c. 24, s. 18.

21. Nothing in this Act shall be construed to exempt the land from levy or sale for rates or taxes heretofore or hereafter legally imposed. R. S. O. 1877, c. 24, s. 19.

Exemption
not to extend
to taxes.

22.—(1) Every parcel of land subject to the provisions of the Act, chapter 5 of the Acts passed in the 34th year of Her Majesty's Reign, intituled *An Act to encourage Settlement in the Free Grant Territory*, and the Act amending the same passed in the 37th year of Her Majesty's reign and chaptered 21, shall continue to be subject thereto, and to this Act, and to any regulations made or to be made by Order in Council under *The Free Grants and Homestead Act of 1868*, or under this Act, except so far as such regulations and provisions are varied by or are inconsistent with the said first-mentioned Act and the amendments thereto.

Lands cleared,
fenced, etc.
out of the
former Set-
tlers' Home-
stead Fund
under 34 V.
c. 5.

31 V. c. 8.

(2) So much of section 8 of this Act as relates to building a house shall not apply to such parcel after clearance, fencing and erection thereon under the said first mentioned Act and the amendments thereto.

Application
of s. 8, limited.

(3) No patent shall issue for any parcel unless the locatee thereof, or those claiming under him, has, within five years from the date of location, paid to the Commissioner of Public Works the expense of the clearance, fencing and erection, and the interest thereon from the date of location.

Expense of
clearance, etc.,
to be paid by
locatee.

(4) On failure in payment of such expense and interest, or in performance of settlement duties according to this Act, the location shall be forfeited, and all rights of the locatee, and of every person claiming under him, in the land, shall cease. R. S. O. 1877, c. 24, s. 20.

Forfeiture of
location.

REMISSION OF SUMS DUE IN CERTAIN TOWNSHIPS.

23. The Lieutenant-Governor in Council may remit the sums due to the Crown in respect of their lands by *bona fide* settlers in all the Free Grant Townships who were in occupation of their lands on the second day of March, 1872, and place the settlers in the same position as those who settled in the Free Grant Townships under the Free Grant Regulations. R. S. O. 1877, c. 24, s. 21.

Lieutenant-
Governor
may remit
sums due by
settlers in
Free Grant
Townships.

24. The Lieutenant-Governor in Council may confer upon the Commissioner of Crown Lands authority to make the remissions in the next preceding section mentioned, subject to the provisions thereof and of any Order in Council not inconsistent therewith. R. S. O. 1877, c. 24, s. 22.

Commissioner
of Crown
Lands may be
empowered to
make remis-
sions.

CHAPTER 26.

An Act respecting Free Grants and Homesteads to Actual Settlers on Public Lands in the District of Rainy River.

Preamble.

WHEREAS under instructions from the Department of the Interior of Canada, certain townships have been surveyed in the Rainy River District, the lots immediately upon the bank of Rainy River having a width of ten chains fronting the river and a varying depth, and the remaining lands so surveyed being subdivided into sections of one mile square, and quarter sections of one hundred and sixty acres, with road allowances around each section; and whereas a number of settlers have gone into occupation of the lands so surveyed, and it is expedient to adopt said surveys and otherwise provide for the settlement of the lands in question;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Rainy River Free Grants and Homesteads Act*." 49 V. c. 7, s. 1.

Former surveys adopted.

2. The said surveys are hereby adopted and legalized, and the Department of Crown Lands is authorized to continue such system of survey within the District of Rainy River, so far as may be deemed expedient. 49 V. c. 7, s. 2.

Appropriation of lands for settlement.

3. The Lieutenant-Governor in Council may appropriate any lands in the Rainy River District considered suitable for settlement and cultivation, and not being mineral lands or pine timber lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council not inconsistent with the provisions of this Act. 49 V. c. 7, s. 3.

Application of R. S. O. c. 25, to this Act.

4. *The Free Grants and Homesteads Act*, saving and excepting as is hereinafter provided, and so far as the same is not inconsistent with the provisions of this Act, shall apply to lands opened for settlement under this Act.

Free grants to heads of families.

1. The male, or sole female, head of a family with children under eighteen years of age residing with him, or her, may be located for a free grant to the extent of one hundred and sixty acres, or a quarter section.

Free grants to males 18 years of age.

2. A male of the age of eighteen years, without children may be located for a free grant to the extent of one hundred and twenty acres, or a half quarter section, together with an adjoining quarter quarter section.

3. In addition to location every head of a family having children under eighteen years of age residing with him, or her, may purchase at the time of location an adjoining half quarter section, or eighty acres, at \$1 per acre, payable one-fourth cash and the balance in three equal annual instalments with interest. Purchase of locations for children.

4. A male of the age of eighteen years, without children, entitled to locate, may purchase at the time of location an adjoining half quarter section, or eighty acres, at \$1 per acre, payable one-fourth cash, and the balance in three equal annual instalments with interest. Purchase of locations by males 18 years of age.

5. Patents for lands located and purchased under this Act may issue at the expiration of three years from the date of location and purchase. Issue of patents.

6. Where a person has, previous to the passing of this Act, made substantial improvements on two or more adjoining lots, and the lots contain more land than the person is entitled under this Act to locate and purchase, the Commissioner of Crown Lands may sell to such person such additional quantity of land at \$1 per acre as may, under the circumstances, seem just and equitable. Sale to person who has made improvements.

7. In case a person has occupied and made the required improvements upon one or more lots of land before the passing of this Act, the Commissioner of Crown Lands may, after location and purchase as hereinbefore provided, issue the patent therefor without waiting for the expiration of three years. Issue of patents to persons having made improvements.

8. Pine trees growing or being upon any lands located or purchased under this Act, and gold, silver, copper, lead, iron or other mines, or minerals, shall be considered as reserved from the location or purchase, and shall be the property of Her Majesty, except that the locatee, or those claiming under him, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel, on the land so located or purchased, and may also cut and dispose of all trees required to be removed, in actually clearing the land for cultivation, but no pine trees (except for the necessary building, fencing, and fuel as aforesaid) shall be cut beyond the limit of the actual clearing before the issuing of the patent; and pine trees so cut and disposed of (except for the necessary building, fencing and fuel as aforesaid) shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or saw logs. Reservation of pine trees, mines and minerals.

9. Trees remaining on the land at the time the patent issues shall pass to the patentee. 49 V. c. 7, s. 4. Trees to pass to patentee.

5. This Act shall not go into force until a day to be named by the Lieutenant-Governor by his proclamation. 49 V. c. 7, s. 5. Commencement of Act.

CHAPTER 27.

An Act respecting the Heir, Devisee and Assignee Commission.

INTERPRETATION, s. 1.
 HEIR, DEVISEE AND ASSIGNEE COM-
 MISSION, ss. 2, 3.
 JURISDICTION, ss. 4-8.
 CLERK, s. 9.
 SITTINGS, s. 10.
 PROCEDURE ON CLAIMS, ss.
 11-28.

FEES, s. 29.
 List of, s. 29.
 Fees to persons taking affidavits,
 ss. 30, 31.
 Certified copies of proceedings to
 be evidence, ss. 32, 33.
 Right to obtain a patent may be
 assigned, ss. 34.
 Rules and forms, s. 35.

HER MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

INTERPRETATION.

Interpreta-
 tion.

1. Where the following words occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

“Heir,”
 “Devisee,”
 “Assignee,”

1. “Heir,” “Devisee,” or “Assignee” shall be understood to include the heirs, devisees, or assignees of any heir, devisee, or assignee, to any degree; and

“Lands.”

2. “Lands,” shall be understood to mean any lot or lots, piece or parcel of land, of what extent soever, to which a claim may be made under this Act. R. S. O. 1877, c. 25, s. 1.

HEIR, DEVISEE AND ASSIGNEE COMMISSION.

Commis-
 sioners for the
 purpose of
 this Act.

2. The present Heir, Devisee and Assignee Commission and the Commissioners appointed thereby shall continue subject to the provisions of this Act, and the Lieutenant-Governor may, from time to time, issue Commissions under the Great Seal, to the Judges of the Supreme Court of Judicature for Ontario, and to such and so many other persons as he may think fit; and the said Commissioners shall be styled and known as “The Heir, Devisee and Assignee Commissioners.” R. S. O. 1877, c. 25, s. 2.

Remunera-
 tion.

3. Such of the said Commissioners as were appointed on or before the seventh day of March, 1879, shall be paid for every year out of the Consolidated Revenue Fund of this Pro-

vince, the sum of \$1,000 each, to be paid quarterly on the last days of each of the months of March, June, September and December in each year, free and clear from all taxes and deductions whatever, and so in proportion for any broken period. R. S. O. 1877, c. 25, s. 3; 44 V. c. 5, s. 90 (3).

JURISDICTION.

4. The Commissioners may ascertain, determine and declare, in all cases brought before them under this Act, who is the party to whom the patent ought to issue for the lands to which the claims respectively relate. R. S. O. 1877, c. 25, s. 4. Power of Commissioners.

5. The Commission and Commissioners shall, with respect to claims to lands within Ontario vested in the Crown, for which no patent has issued, and for which the patents are to be issued by the Government of Canada, have the same jurisdiction and powers, and the proceedings by and before the Commission and Commissioners shall be the same as such jurisdiction, powers and proceedings prior to the coming into force of *The British North America Act, 1867*. 42 V. c. 6, s. 1. Jurisdiction as to claims to certain lands in Ontario for which patents are to be issued by the Government of Canada.

6. Where the said Commissioners adjudicate in respect of lands vested in the Crown, for which patents are to be issued by the Government of Canada, they shall report their decision as to such lands to His Excellency the Governor-General in Council. 42 V. c. 6, s. 2. Report to be made to the Governor-General in Council.

7. Any three of the Commissioners (a Judge of the Supreme Court of Judicature being one,) shall be a *quorum*, and whenever the Commissioners are empowered or directed to do or perform any act, such act may be done or performed by a *quorum* of the Commissioners. R. S. O. 1877, c. 25, ss. 2, 5. Quorum.

8. Any act herein authorized or directed to be performed by one Commissioner may be so performed either in or out of the period appointed for the sittings of the Commissioners. R. S. O. 1877, c. 25, s. 6. Acts of single Commissioner how performed.

CLERK.

9. The Commissioners may appoint a fit person to be their Clerk. R. S. O. 1877, c. 25, s. 7. Clerk to be appointed.

SITTINGS.

10. The sittings of the Commissioners shall be holden at the City of Toronto, and shall commence on the first Monday in January and the first Monday in July in each year, and continue for thirteen days next following the said days respectively, Sundays and holidays excepted, and such further time as the Commissioners may direct, and it shall not be necessary to adjourn from day to day. R. S. O. 1877, c. 25, ss. 8, 9. Sittings when and where to be holden.

PROCEDURE ON CLAIMS.

- 11.** Every person claiming lands within Ontario for which no patent has issued, as being the heir, devisee or assignee, of the original nominee of the Crown, or as having derived a title or claim to such lands from or through any heir, devisee or assignee, may bring his claim before the Commissioners at their sittings, either personally or by his agent or solicitor, and produce before the Commissioners all such documents, proofs and evidence as he may have to adduce in support of such claim; and the evidence may be given *viva voce* before the Commissioners, or by written affidavits or affirmations, sworn or affirmed before any one of the Commissioners, or before any person specially appointed to receive the same by the Commissioners, or before the Judge of any County Court, or any Clerk of the Peace, or Notary Public or Commissioner for taking affidavits in the High Court each of whom may receive and administer the same. R. S. O. 1877, c. 25, s. 10; 48 V. c. 16, s. 2.
- 12.** Every certificate of the Commissioner of Crown Lands or of the Clerk of the Executive Council, or copies, certified by them respectively, of documents in their custody, shall be received in evidence before the Commissioners. R. S. O. 1877, c. 25, s. 11.
- 13.** The Commissioners may summon before them, by summons under the hand of any one of them, either the claimant or any party interested in the case, or any other person whom they deem it expedient to examine as a witness or whom they have reason to believe to be in possession of any document by the production of which the ends of justice may be better attained; and may require the claimant or party, or the witness, to submit to such oral examination upon oath, or to answer on oath and to sign his answers to interrogatories or cross-interrogatories in writing, or to produce such books, papers or documents in his possession, as to the Commissioners appears requisite. R. S. O. 1877, c. 25, s. 12.
- 14.** The Commissioners may cause such interrogatories or cross-interrogatories as they deem requisite to be served upon and answered by any claimant, party or witness, or any witness whose depositions may be produced in evidence before them, and may cause commissions to be issued for the examination of any witness not resident in Ontario, and for requiring such witness to produce such books, papers or other documents as he may have in his possession, and may at their discretion delay the proceedings in the case until the evidence and answers have been adduced and given. R. S. O. 1877, c. 25, s. 13.
- 15.** If a claimant, party or person duly summoned to give evidence, or to produce any book, paper or document, or to answer any interrogatories or cross-interrogatories before the

What claims may be brought before the Commissioners.

Evidence.

Certified copies of documents as evidence.

Summoning witnesses, parties, etc., for examination.

Mode of examination, production of documents, etc.

Commissions to examine witnesses not in Ontario.

Penalty for neglecting to appear or to answer.

Commissioners, or before any person commissioned by them to receive the same within this Province, wilfully neglects to appear at the time and place appointed in the summons, or appearing, refuses to answer any lawful question, or to produce any document in his possession, he shall forfeit the sum of \$100 to the party at whose instance he has been so summoned or required to answer or to produce such document; and if the claimant or any party interested in the case makes default in answering any interrogatory or cross-interrogatory which he may be duly required to answer, the interrogatory or cross-interrogatory shall be taken *pro confesso* as if his answer had been such as would be most adverse to his own claims or interest. R. S. O. 1877, c. 25, s. 14.

Interrogatory not answered by a party to be taken *pro confesso*.

16. The Commissioners shall not receive or proceed upon any claim until the party by whom, or on whose behalf the same is made (or if the party consist of more than one person, then until some one of such persons), has made and produces before the Commissioners an affidavit or affirmation in writing signed by him, that the claim is just and well founded to the best of his knowledge and belief, and that he is not aware of any adverse claim, or if he is aware of any adverse claim, that he has at least one month before the making of the affidavit or affirmation caused to be served on the party having or supposed to have the adverse claim, notice in writing of his claim and of his intention to bring the same before the Commissioners, and of the time when it is intended to be so brought, and a copy of the notice shall be annexed to the affidavit or affirmation. R. S. O. 1877, c. 25, s. 15.

Affidavit to be made by claimant before his claim shall be received.

17. The Commissioners shall not proceed upon any claim as aforesaid, unless a notice specifying the claim and the name or names of the party claiming, together with the number of the lot of which the lands claimed consist or form part, and of the concession and the name of the township in which the same lies, has been put up in some conspicuous place in the office of the Clerk of the Peace of the County in which the lands are situate, during at least thirty days before the claim comes to be heard before the Commissioners, nor unless a certificate to that effect from the Clerk of the Peace is produced to the Commissioners. R. S. O. 1877, c. 25, s. 16.

Certain public notice to be given before a claim is received.

18. The clerk of the peace of every county shall, once in every three months, make a list of the claims so put up, in his office, specifying therein the particulars of the claims in the manner in which they are hereinbefore required to be specified in the notice to be put up, and shall affix the list in some conspicuous part of the court house, or place in which the Courts of General Sessions are held for the county, and shall cause the list to be publicly read and proclaimed at each session by the crier in open Court, immediately after the delivery of the

Duty of the Clerk of the Peace with regard to such notices.

Fee. charge to the Grand Jury; and for each certificate the Clerk of the Peace may demand and receive the sum of fifty cents, and no more. R. S. O. 1877, c. 25, s. 17.

Extension of time. **19.** The Commissioners may defer, delay, or adjourn the proceedings on any claim brought before them, and may give such further or enlarged time for the production of evidence, or for any other purpose relative to such claim, and for the decision thereon, as they may deem expedient for the attainment of the ends of justice. R. S. O. 1877, c. 25, s. 18.

Commissioners to report to the Lieutenant-Governor in Council. **20.** After the Commissioners have fully examined any claim, they may either reject or allow the same, as in their judgment the justice and equity of the case requires, without regard to legal forms or to the strict letter of the law or legal rules of evidence, and shall report their decision to the Lieutenant-Governor in Council, and the report shall be final and conclusive (except in the case hereinafter mentioned), and the Lieutenant-Governor in Council shall direct Her Majesty's letters patent under the Great Seal of the Province to issue, for granting the lands in question to the party who has been determined by the decision of the Commissioners to be entitled to the same as representing the original nominee of the Crown. R. S. O. 1877, c. 25, s. 19.

Patent to issue on report.

Effect of the patent with regard to charges, or incumbrances. **21.** The letters patent shall have the same and no other effect or operation with regard to any charge, incumbrance, lien, matter or thing, upon or affecting the lands so granted, as letters patent issuing for the same in favour of the original nominee of the Crown would have had, save only as establishing the claim of the party in whose favour they may be granted to the lands to which they relate, as the heir, devisee or assignee of or as otherwise representing the original nominee. R. S. O. 1877, c. 25, s. 20.

Report and patent not to affect any claim to any lands but those mentioned therein. **22.** Neither the decision of the Commissioners on any claim, nor the issuing of the letters patent on such decision, shall extend to or in any way affect any claim of the said party, or of any other party, to any lands other than those to which such decision expressly relates, and which are mentioned and described in the report and letters patent, but such claim to other lands shall continue and remain as if such decision and report had not been made. R. S. O. 1877, c. 25, s. 21.

Patent not to issue for one month after the report is received. **23.** No letters patent shall issue on any decision and report of the Commissioners until after the expiration of one month from the time the report has been transmitted to and marked as received by the Clerk of the Executive Council. R. S. O. 1877, c. 25, s. 22.

Patent may be stayed if the report has been obtained by surprise, etc. **24.** If, before the expiration of such month, a *quorum* of the Commissioners, from any representation made to them, find reason to believe that the decision and report were obtained by surprise or erroneously made in any respect, and that

justice requires that the issuing of the letters patent should be stayed, then such *quorum* of the Commissioners, although not then the regular period of their sitting, may report accordingly to the Lieutenant-Governor in Council, and the issuing of the letters patent shall be thereupon stayed until the Commissioners again report upon the case, and the Commissioners may rehear the case or let in any new claim and receive or insist upon any new evidence as to them may appear expedient to enable them to do justice in the case, and may thereafter decide and report thereon as if no prior decision and report had been made, and with like effect. R. S. O. 1877, c. 25, s. 23.

Commissioners may rehear the case.

25. If, under the circumstances of such case, it appears to the Commissioners fair and right so to do, they may allow to the party in whose favour the first decision and report were made, such costs against the party at whose instance the case has been again taken into consideration as they may deem just and reasonable; or they may, in case of fraud or wilful wrong in the conduct of such party, award costs in like manner against him to the party in whose favour the subsequent decision and report are made. R. S. O. 1877, c. 25, s. 24.

Costs occasioned by rehearing to be in the discretion of the Commissioners.

26. In case land for which no patent has issued is at any time described as granted in any schedule furnished by the Commissioner of Crown Lands to the Treasurer of any County in Ontario, under the provisions of any law concerning the collection of local taxes or assessments, and is afterwards sold for arrears of such local taxes or assessments, and in case the period allowed by law for the redemption of the lands has expired, the purchaser, or the heir, devisee or assignee of the purchaser may claim the same before the Commissioners aforesaid, and the purchaser shall thereupon, for all the purposes of this Act, be considered as an assignee of the original nominee of the Crown, and his claim shall be acted on and dealt with accordingly. R. S. O. 1877, c. 25, s. 25.

Purchasers of unpatented lands sold for taxes may claim patent before the Commissioners.

27. In case the original nominee of the Crown, or any person through whom any party obtaining letters patent for lands under this Act derived his claim, had before the allowance of the claim, and before the issue of the letters patent, granted any mortgage, incumbrance or lien on the lands, by any instrument by which the same would have been validly granted if the letters patent had issued in favour of the grantor before the date of the instrument, the same may be registered in the office of the Registrar for the Registry Division in which the lands lie, subject to the same conditions, and with the same effect and no other, and shall have the same force and effect, and no other, as if letters patent for the land had, before the execution of the instrument, been issued in favour of such grantor. R. S. O. 1877, c. 25, s. 26.

Effect of mortgages, etc., granted before the issue of the letters patent.

Costs
allowed to
witness.

28. In all cases under this Act in which a witness duly appears to give evidence before the Commissioners, or before any person appointed by them to examine or to receive the testimony or deposition of the witness, the Commissioners may order and direct the party at whose instance the witness has been summoned, or his testimony or depositions have been taken, to allow to the witness for his loss of time and expenses such sum as the Commissioners may deem equitable, which order the party shall obey, or in default, the sum shall be recoverable from him by action in any Court having jurisdiction in civil cases to a like amount, due regard being had to the limits of the local jurisdiction of such Court. R. S. O. 1877, c. 25, s. 27.

FEES.

Fees.

Rev. Stat.,
c. 22.

29. The following fees in respect of proceedings had under this Act shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps* :

1. For filing every petition, twenty cents ;
2. On every claim entered and received, fifty cents
3. For setting down a claim for hearing, fifty cents ;
4. On the hearing of a claim, one dollar ;
5. On every claim allowed, fifty cents ;
6. For making up a report on the same, two dollars ;
7. For every certificate of the allowance of a claim, twenty-five cents ;
8. For a copy of the order respecting a claim, twenty-five cents ;
9. For each summons for the attendance of any witness or witnesses, forty cents ;
10. For every commission for the examination of witnesses. two dollars ;
11. For a certified copy of any paper or document in the custody of the Clerk of the Commissioners, twenty-five cents for the certificate, and at the rate of ten cents for every one hundred words in such copy ;
12. And such reasonable fees for any service not herein specially mentioned or included therein, as the Commissioners may from time to time direct. R. S. O. 1877, c. 25, s. 28.

Unenumerat-
ed services.

Fees to person
appointed to
take affida-
vits.

30. Every person, authorized by section 11, to take affidavits in proceedings under this Act (not being one of the Commissioners), shall for every affidavit or affirmation so taken before him be entitled to demand and recover from the party requiring him to take the same the sum of twenty-five cents, and no more. R. S. O. 1877, c. 25, s. 29.

Recovery of
such fees.

31. The fees may be required to be paid before the service for which they are granted is performed, or if not so required,

may be recovered in the manner hereinbefore appointed with regard to the sum allowed to a witness. R. S. O. 1877, c. 25, s. 30.

MISCELLANEOUS.

32. The copy of any order, report or decision made by the Commissioners under this Act, certified by their Clerk and countersigned by one of the Commissioners, shall be received in all civil actions in Courts in this Province, as evidence of the making of the order, report or decision, in the manner and form and according to the tenor thereof as set forth in the copy. R. S. O. 1877, c. 25, s. 31.

Certified copies of proceedings and orders of the Commissioners to be received in evidence.

33. It shall not be necessary in an action to prove the signatures of the Clerk or Commissioner, if the party intending to produce the same has given due notice of his intention to an adverse party according to the course and practice of the Court, unless the adverse party has afterwards in like manner signified his intention to dispute the signatures, or either of them, in which case it shall be requisite to prove the same, and the costs attending the proof may, in the discretion of the Court, be allowed to the party making proof, whatever be the result of the action. R. S. O. 1877, c. 25, s. 32.

In what cases only it shall be necessary to prove the certificate.

Costs.

34. Any person whose right to obtain a patent for land has been established by the Commissioners, under this or any former Heir, Devisee and Assignee Act, may, by an instrument in writing, assign, transfer and convey his right and interest to or in the land; and the assignment, as well as all subsequent assignments, may be registered agreeably to the provisions of *The Public Lands Act*; and the last assignee shall be entitled to a patent upon proving compliance with all the conditions to which the original location was subject. R. S. O. 1877, c. 25, s. 33.

Right to obtain a patent, assignable in certain cases.

Assignment may be registered under Rev. Stat. c. 24, s. 17.

35. The Commissioners for the time being may from time to time make and establish rules and forms, with regard to proceedings to be had before them, and to such notices, papers and other documents as may be required in the conduct of the proceedings, as to them appear expedient for the better attainment of the purposes of justice. R. S. O. 1877, c. 25, s. 34.

Rules and forms of proceedings to be established by the Commissioners.

CHAPTER 28.

An Act respecting Timber on Public Lands.

LICENSES TO CUT TIMBER ON PUBLIC LANDS, ss. 1-2.	ROAD ALLOWANCE, s. 4.
GOVERNMENT ROAD ALLOWANCES, TO BE DEEMED UNGRANTED LANDS, s. 3.	TOWNSHIPS ENTITLED TO PERCENTAGE OF TIMBER DUES, ss. 6-9.
BY-LAWS OF MUNICIPALITIES IN RELATION TO TIMBER ON ROAD ALLOWANCES NOT TO PREVAIL AGAINST LICENSE, s. 5.	OBLIGATIONS OF LICENSEES, ss. 10-13.
RIGHTS OF LICENSEE TO TIMBER ON	LIABILITY OF PERSONS CUTTING TIMBER WITHOUT A LICENSE, ss. 14-16.
	SEIZURE OF TIMBER BY THE CROWN, ss. 17-21.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

LICENSES TO CUT TIMBER ON PUBLIC LANDS.

Commissioner of Crown Lands may grant licenses to cut timber on Public Lands.

1.—(1) The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licenses to cut timber on the ungranted lands of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be established by the Lieutenant-Governor in Council, and of which notice may be given in the *Ontario Gazette*.

Period of license.

Conflicting licenses.

(2) No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of incorrectness of survey, or other error, or cause whatsoever, a license is found to comprise lands included in a license of a prior date, the license last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance. R. S. O. 1877, c. 26, s. 1.

Operation of license.

2. The licenses shall describe the lands upon which the timber may be cut, and shall confer for the time being on the nominee the right to take and keep exclusive possession of the lands so described, subject to such regulations and restrictions as may be established:—And the licenses shall vest in the holders thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether the trees, timber and lumber are cut by authority of the holder of the license, or by any other per-

son, with or without his consent;—And the licenses shall entitle the holders thereof to seize in revendication, or otherwise, such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to institute any action against any wrongful possessor or trespassers, and to prosecute all trespassers and other offenders to punishment and to recover damages if any:—And all proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired. R. S. O. 1877, c. 26, s. 2.

3. Every Government road allowance included in any Crown timber license, heretofore granted, or which may hereafter be granted under section 1 of this Act, shall be deemed and taken to be and to have been ungranted lands of the Crown, within the meaning of said section, and liable as such to be included in the license. R. S. O. 1877, c. 26, s. 3.

4. The licensee or nominee named in any license shall be deemed and taken to have, and to have had, all the rights in respect of every such road allowance, and the trees, timber and lumber thereon, or cut thereon, as were, or by section 2 of this Act, may be conferred upon him in respect of any other Crown lands embraced in such license, and the trees, timber and lumber thereon, or cut thereon, except that he shall not be entitled to take or keep exclusive possession of such road allowance. R. S. O. 1877, c. 26, s. 4.

5. No by-law passed, or to be passed by any Municipal Council for preserving, selling, or otherwise appropriating or disposing of the timber or trees, or any part thereof, on a Government road allowance included in any license, shall be deemed or taken to have had or have any force or effect against such license. R. S. O. 1877, c. 26, s. 5.

6. In case the council of any township, organized as a separate municipality, or the council of any united townships, have passed, or hereafter pass, a by-law for preserving or selling the timber or trees on the Government road allowances within such township, or united townships, and included in any license, the corporation of such township or united townships shall be entitled to be paid out of the consolidated revenue fund of this Province a sum equal to two per centum of the dues received by Her Majesty for or in respect of the timber or saw-logs which, during the existence of the by-law, were cut within the township, or united townships, under the authority of the license; but no corporation shall be entitled to such percentage of the dues received for timber or saw-logs cut during the times or seasons when timber, or trees on such road allowances were cut or removed, for which cutting or removal the corporation had, before the 15th day of February, 1871, obtained a verdict against such licensee or nominee. 44 V. c. 2, s. 1.

Terms on which Councils may obtain the percentage.

7. No Municipal Corporation shall be entitled to such payment as aforesaid, unless a certified copy of the by-law passed or to be passed as aforesaid, accompanied by an affidavit of the Clerk or Reeve of the Corporation, verifying the copy, and the date of the passing of the by-law, is filed in the Department of Crown Lands at Toronto within six months from the passing of the by-law; and the affidavit may be made or taken before any person or officer who, under sections 42 or 43 of *The Public Lands Act*, is authorized to take the affidavits in those sections mentioned. R. S. O. 1877, c. 26, s. 7.

Rev. Stat. c. 24, ss. 42, 43.

Councils to expend percentage on highways.

8. All moneys to be paid, as aforesaid, to any municipal corporation shall be expended in the improvement of the highways situate within the Township or within the senior or junior Township in respect of which such moneys were paid. 44 V. c. 2, s. 2.

Time from which junior townships entitled to percentage of dues.

9. The percentage to which the junior township or townships of such united townships may be entitled, shall only be in respect of the dues received upon timber or trees which shall be cut after the 30th day of April, 1881. 44 V. c. 2, s. 3.

[See *Cap. 25, ss. 13-15, as to the right of the Crown, to grant Timber Licenses on Free Grant Lands.*]

OBLIGATIONS OF PERSONS OBTAINING LICENSES.

Return to be made by persons obtaining licenses.

10. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of sawlogs, or of the number and description of sticks of square timber manufactured and carried away under the license; and the statement shall be sworn to by the holder of the license, or his agent, or by his foreman, before a Justice of the Peace; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly. R. S. O. 1877, c. 25, s. 9.

Timber liable to payment of dues may be followed until dues are paid.

11.—(1) All timber cut under licenses shall be liable for the payment of the Crown dues thereon, so long as and wheresoever the timber or any part of it may be found in Ontario, whether in the original logs, or manufactured into deals, boards or other stuff; and all officers or agents entrusted with the collection of such dues may follow all timber and seize and detain the same wherever it is found until the dues are paid or secured.

Timber removed into Quebec.

(2) Nothing in this Act contained shall be construed to repeal the provisions of section 4 of chapter 23 of the Consolidated Statutes of Canada, as regards timber removed into the Province of Quebec. R. S. O. 1877, c. 26, s. 10

12. Bonds or promissory notes taken for the Crown dues either before or after the cutting of the timber, as collateral security, or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the dues are actually discharged. R. S.O. 1877, c. 26, s. 11.

The giving of bonds or notes not to affect the lien on the timber.

13. If timber so seized and detained for non-payment of Crown dues remains more than two months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Commissioner of Crown Lands, with the previous special sanction of the Lieutenant-Governor in Council, may order a sale of the timber to be made after sufficient notice; and the balance of the proceeds of the sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of the timber. R. S. O. 1877, c. 26, s. 12.

Sale of timber seized for non-payment of dues.

LIABILITY OF PERSONS CUTTING WITHOUT A LICENSE.

14.—(1) If any person without authority cuts or employs or induces any other person to cut, or assists in cutting timber of any kind on the Crown, Clergy, School or other Public Lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away, merchantable timber of any kind, so cut from the Public Lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market.

Penalty on persons cutting timber without license, etc.

(2) When the timber or saw logs made has or have been removed by any person out of the reach of the officers of the Crown Lands Department, or it is otherwise found impossible to seize the same, such person shall in addition to the loss of his labour and disbursements, forfeit a sum of \$3 for each tree (rafting stuff excepted) which he is proved to have cut or caused to be cut or carried away.

If the timber has been removed, etc.

(3) Such sum shall be recoverable with costs, at the suit and in the name of the Commissioner of Crown Lands, or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty.

By whom penalty recoverable.

(4) In such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting that he is duly employed, under the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. R. S. O. 1877, c. 26, s. 13.

Burden of proof.

15. Where satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent party, is received by the Commissioner of Crown Lands, or other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands,

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, etc.

and describing where the timber can be found, the Commissioner, officer or agent, or any one of them, may seize or cause to be seized in Her Majesty's name, the timber so reported to be cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority. R. S. O. 1877, c. 26, s. 14.

As to timber so cut and mixed up with other timber.

16. Where the timber so reported to have been cut without authority on the Public Lands, has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on Public Lands without license from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Public Lands, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder. R. S. O. 1877, c. 26, s. 15.

SEIZURE OF TIMBER, &C.

Seizing officer may command assistance.

17. Any officer or person seizing timber, in the discharge of his duty under this Act, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized. R. S. O. 1877, c. 26, s. 16.

Burden of proof that dues have been paid.

18. Whenever timber is seized for non-payment of Crown dues, or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and a question arises whether the said dues have been paid on the timber, or whether the timber was cut on other than the Public Lands aforesaid, the burden of proving payment, or on what land the timber was cut, shall lie on the owner or claimant of the timber and not on the officer, who seizes the same, or the party bringing the prosecution. R. S. O. 1877, c. 26, s. 17.

Timber seized to be condemned, if not claimed within one month.

19. All timber seized under this Act shall be deemed to be condemned, unless the person from whom it was seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that he claims or intends to claim the same; failing notice, the officer or agent seizing shall report the circumstances to the Commissioner of Crown Lands, who may order the sale of the said timber, by the officer or agent, after a notice on the spot of at least thirty days. R. S. O. 1877, c. 26, s. 18.

Judge may order timber to be delivered on security being given.

20.—(1) Every Judge having competent jurisdiction, may whenever he deems it proper, try and determine such seizures, and may order the delivery of the timber to the alleged owner, on receiving security by bond with two good and sufficient sureties to be first approved by the agent, to pay double the value in case of condemnation.

(2) The bond shall be taken in the name of the Commissioner of Crown Lands, to Her Majesty's use, and shall be delivered up to and kept by the Commissioner.

(3) If the seized timber is condemned, the value thereof shall be forthwith paid to the Commissioner of Crown Lands, or the agent, and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered. R. S. O. 1877, c. 26, s. 19.

21. Every person availing himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. R. S. O. 1877, c. 26, s. 20. Forfeiture of timber in case of fraud.

CHAPTER 29.

An Act to prevent Trespasses to Public Lands.

ENTRY ON CROWN LANDS ONLY BY SPECIAL LICENSE, s. 1.	APPROPRIATION OF MONEY LEVIED UNDER THIS ACT, s. 15.
COMMISSIONERS MAY BE APPOINTED TO INVESTIGATE TRESPASSES, s. 2.	PERSONS CHARGED TO BE SUMMONED TO ANSWER, s. 16.
PROCEEDINGS AGAINST INTRUDERS, ss. 3-9.	SHERIFFS, ETC., TO EXECUTE WARRANTS OF COMMISSIONERS, s. 17.
PUNISHMENT OF PERSONS CUTTING TREES, QUARRYING STONE, ETC., ss. 10-12.	PROTECTION OF COMMISSIONERS AGAINST VEXATIOUS ACTIONS, s. 18.
SEIZURE OF TIMBER CUT OR STONE QUARRIED, s. 13.	APPEAL FROM COMMISSIONERS, s. 19.
EVIDENCE ON INVESTIGATIONS, s. 14.	COMMISSIONERS TO BE JUSTICES OF THE PEACE, <i>ex-officio</i> , s. 20.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. No body corporate, and no servant or agent of such body, shall enter into or upon, have, hold, use or enjoy, for any purpose whatever, any land belonging to Her Majesty, without having the license of Her Majesty for such purpose, signified under the hand and seal of the Lieutenant-Governor, or being expressly authorized by statute. R. S. O. 1877, c. 27, s. 1. Entry on Crown Lands not to be made without special license.

2. The Lieutenant-Governor may, from time to time, appoint two or more Commissioners, under the Great Seal, to inquire into any complaint made to them, or any one of them, against any person for illegally possessing himself of any land in Ontario, surveyed or unsurveyed, for which no grant, lease, ticket either of location or purchase, or letter of license of occupation, Commissioners may be appointed to inquire concerning trespasses committed upon Crown Lands.

has been issued, either under the Great Seal, or by or from the proper Department of the Provincial Government in that behalf, whether the land be Crown or Clergy Reserve or School Land or however otherwise denominated, or whether held in trust, or in the nature of a trust, for any party whomsoever; and also to inquire into any complaint made to them, or any one of them, against any person for having unlawfully cut down or removed timber, trees, stone or soil, on the land, or for having done other wilful and unlawful injury thereon. R. S. O. 1877, c. 27, s. 2.

Commissioners on finding illegal possession—

To give notice to intruder to remove within thirty days.

On neglecting to remove, warrant of removal may be issued.

3. If the Commissioners, or any one or more of them, upon investigation of the complaint so made, find and determine that the person complained against is unlawfully in possession of such lands, they or any of them may give notice to such person to remove from the occupation thereof within not less than thirty days from service of the notice, and if the person so notified neglects so to remove within the time specified in the notice, the Commissioners, or any one or more of them, may issue a warrant, signed and sealed by them or him, directed to the Sheriff of the County in which the lands are situated, commanding him to eject and remove the person from the lands, which warrant the Sheriff shall execute and carry into effect in like manner as a writ of possession issued by the High Court. R. S. O. 1877, c. 27, s. 3.

Commissioners may, in case of doubt, issue a general notice to quit.

Persons disobeying the notice may be removed.

4. If, upon the investigation, it appears to the Commissioners or Commissioner that any person has been actually in possession of the lands or a part thereof, or has, within twelve months next before, claimed to be in possession, or claimed or pretended to have a right to possession, but it nevertheless appears uncertain who is then in actual possession, or whether the person in possession claims to be in possession of his own right, or merely under or on behalf of another, then the Commissioners or Commissioner may give a notice to quit similar to that in the last preceding section mentioned, but directed generally to all persons having or claiming possession of the lands, their tenants, bailiffs and servants, and all others whom it may concern; and if all persons whosoever who have not written authority from the Commissioners, or one of them, to remain upon the lands, do not quit and remove from the same within the time specified in the notice, the Commissioners, or one of them, may issue a warrant of removal, signed and sealed by them or him, directed to the Sheriff of the proper County, commanding him to eject and remove all persons whomsoever from the lands, and the Sheriff shall execute and carry the warrant into effect, as in the preceding section is provided. R. S. O. 1877, c. 27, s. 4.

Summons to contain description of lands.

5. Every summons, notice to quit, and warrant of removal shall describe the lands with the same certainty as would be necessary in a deed of conveyance between parties. R. S. O. 1877, c. 27, s. 5.

6. Neither the summons nor notice to quit need be personally served; it shall be sufficient to deliver the same to the person in actual possession or occupation of the land, and the notice to quit may also be served by leaving the same with the wife of such person on the premises, or with any grown person found thereon, and by putting up in the last case a duplicate notice in some conspicuous place on the premises; and where no grown person is found on the premises, then by putting up one notice in each of four conspicuous places on the premises; but no fine shall be imposed on any person except upon personal service of the summons or service on his wife. R. S. O. 1877, c. 27, s. 6.

Service of
summons and
notice.

7. If, after the execution of a warrant of removal, special for the removal of particular parties, or general for the removal of all parties found trespassing or intruding upon any lands, the person removed, or other person, returns or enters into or upon the same lands, or if the Sheriff has reason to believe that the person, or any other person, will so return or enter upon the same lands, unless they be protected by process for the prevention thereof, the Sheriff shall with the warrant certify the same into the High Court at Toronto, setting forth such return, entry or intrusion, or his belief that such return, entry or intrusion, will take place unless the lands be protected by process for the prevention thereof, and thereupon the Court may issue a writ of removal by continuance, as nearly as may be in the form of Schedule A to this Act, and, upon a similar return thereto, a second writ, and afterwards, upon similar returns, other writs of a like description, as often as may be necessary for the protection of the lands against intrusion. R. S. O. 1877, c. 27, s. 7.

Writ of
removal by
continuance
may be ob-
tained.

8. Every person concerned in the proceedings, or shewing an interest entitling him to be heard in that behalf, may obtain from the said Court, a rule to shew cause, which shall be served personally on one or more of the Commissioners, and thereupon the Court may order a *supersedeas* to such writ, after which no further proceedings shall be had upon such writ of removal as aforesaid, or the proceedings of the Commissioners whereon it was founded; but if it be deemed necessary to proceed against such party, or any other, for intrusion or trespass upon the lands, the like proceedings of notice to quit and warrant of removal may be had as at first. R. S. O. 1877, c. 27, s. 8.

Writ of removal by continuance may be superseded upon cause shewn.

Proceedings, if the party again intrudes.

9. If a person who has been so removed returns and unlawfully resumes occupation of the same lands, or any part thereof, the Commissioners, or any one of them, may, upon complaint and satisfactory proof of the fact, order him to be committed to the Common Gaol of the County for a term not exceeding thirty days, and that he shall pay a fine to Her Majesty, not exceeding \$80. R. S. O. 1877, c. 27, s. 9.

Penalty for re-
suming posses-
sion.

Penalty
for unlawfully
cutting and re-
moving trees,
quarrying, etc.

10. If upon investigation of a complaint made against a person for having unlawfully cut down or removed timber or trees, or quarried or removed stone, or other materials, from the lands aforesaid, the Commissioners, or any one or more of them, find him guilty thereof, the Commissioners or any one or more of them may order him to pay a fine to Her Majesty not exceeding \$80, and in default thereof to be committed to the gaol of the proper County for a period not exceeding three months. R. S. O. 1877, c. 27, s. 10.

Removal of
convictions by
certiorari.

11. In all cases of summary conviction under this Act, the same may as of course be removed by *certiorari* into the High Court and thereupon, unless otherwise provided by law, the Court shall, for enforcing the fine, issue, as in the case of other Crown debts, one or more writs of *fieri facias* and *capias ad satisfaciendum*, in the nature of the exchequer long writ, as nearly as may be in the form of Schedule B to this Act, and from time to time repeat such writs as may be necessary, till the amount has been paid. R. S. O. 1877, c. 27, s. 11.

Proceedings
for the satis-
faction of fine
imposed.

Discharge of
person
convicted and
in custody.

12. If at the time of the removal of the conviction, the person convicted is in custody under the warrant of the Commissioners, or any one of them, for non-payment of the fine, he shall not be discharged from imprisonment at the end of the time prescribed in such warrant, if the Sheriff then has a writ of *fieri facias* and *capias ad satisfaciendum* for the levying of the fine, and is unable to make the same out of the goods and chattels or lands and tenements of the party, but the party shall remain charged in custody upon the writ until the fine is fully paid, as in the case of other Crown debtors similarly charged. R. S. O. 1877, c. 27, s. 12.

Timber, etc.,
cut, but not
removed, may
be seized and
sold.

13. The Commissioners or any one of them may order and cause to be seized and detained timber or trees unlawfully cut down and any stone quarried upon the lands aforesaid, and not removed therefrom, and may afterwards sell and dispose thereof, as instructed from time to time by the Lieutenant-Governor in that behalf. R. S. O. 1877, c. 27 s. 13.

Commission-
ers may
summon and
examine
witnesses.

14. The Commissioners or any one of them may summon before them any person as a witness to give evidence on any matter they are authorized to investigate, and may administer to him an oath that he will true answer make to all questions put to him in reference to the matter under investigation. R. S. O. 1877, c. 27, s. 14.

A. proportion
of moneys
levied under
this Act.

15. Moneys and fines collected under this Act shall, after deducting the expenses of collecting, be paid into the hands of the Provincial Treasurer, and form part of the Consolidated Revenue of this Province. R. S. O. 1877, c. 27, s. 15.

16. The Commissioner or Commissioners, before entering on the investigation of any charge under this Act, shall summon the party charged to appear before him or them at a place named in the summons, and if the party does not appear, the Commissioner or Commissioners may, upon proof of due service of the summons, proceed to hear and determine the complaint *ex parte*. R. S. O. 1877, c. 27, s. 16.

Hearing *ex parte* on non-appearance of persons accused.

17. The Commissioner or Commissioners acting under this Act, may issue a warrant under their hands and seals, to any sheriff, gaoler or peace officer of the County wherein the proceeding is had, commanding such sheriff, gaoler or peace officer to carry into effect any order by them made within their jurisdiction; and such warrants shall be executed by the sheriff, gaoler or peace officer, as are warrants issued by Justices of the Peace. R. S. O. 1877, c. 27, s. 17.

Issue and execution of warrants.

18. The Commissioners and all acting under their authority shall respectively have the same privilege and protection in respect of any action brought against them for any act by them done in the execution of their office, that Justices of the Peace, sheriffs, gaolers or peace officers respectively have, and the Commissioners, when engaged in the execution of their office, and each of them when so engaged, shall have the same power to commit for contempt that Justices of the Peace have in similar cases for contempts against them in the execution of their office. R. S. O. 1877, c. 27, s. 18.

Commissioners entitled to the same protection as Justices of the Peace, etc.

19. Any person dissatisfied with the judgment or decision of the Commissioners in any of the foregoing cases, may, within three months from the date thereof, appeal to the High Court, having first given to the Commissioners fourteen days' notice in writing of the intention to appeal, in which case the Commissioners shall thereupon transmit to the proper officer of the Court a copy of their judgment and the evidence, and the Court may revise, alter, affirm or annul such decision, make or order further inquiry, or direct an issue to be tried before the Court or a Judge thereof with or without the assistance of a jury, and may make such order respecting costs and other matters as seems reasonable and just; and the judgment of the Court on the appeal shall be conclusive on the party appealing and on the Commissioners. R. S. O. 1877, c. 27, s. 19.

Appeal to lie against judgment of Commissioners.

20. The Commissioners and each of them, and the different Superintendents of the Indian Department, either now in office or hereafter appointed, shall by virtue of their office and appointment, and without any other qualification, be Justices of the Peace within the County within which, for the time being, they may be respectively resident or employed as Commissioners. R. S. O. 1877, c. 27, s. 20.

Commissioners to be Justices of the Peace.

SCHEDULE A.

(Section 7.)

WRIT OF REMOVAL BY CONTINUANCE.

Province of Ontario.

Victoria, by the Grace of God, &c.

To the Sheriff of _____, Greeting :

Whereas by a certain Warrant of Removal made by one (or two, as the case may be) of the Commissioners appointed under the Great Seal of Our Province of Ontario, by virtue of Chapter twenty-nine of *The Revised Statutes of Ontario*, to prevent trespasses to Public Lands, you were formerly commanded that (*here recite Commissioners' Warrant of Removal*), which said Warrant you lately returned to Us into Our High Court of Justice, at Toronto, and thereupon certified to Us that (*here insert the Sheriff's Return setting forth the return of the party or parties, or his belief that he or they would return unless the land be protected by the issue of process for the protection thereof*) according to the form of the Statute in such case made and provided : Therefore, We command you, that immediately after receipt hereof you proceed to the said lands and premises, and remove or cause to be removed all and singular such person and persons, if any, whom you shall find in or upon the same, from the possession thereof, and give or cause to be given to such person or persons as shall for that purpose be appointed by Our said Commissioners, or any one of them, under their or his hand and seal, the full, quiet and peaceable possession of the said premises and every part and parcel thereof, and that such person or persons, and all others having from time to time a similar warrant from Our said Commissioners, or any one of them in such quiet and peaceable possession of the said premises, you support, help and maintain from time to time, as often as occasion shall and may require ; and what you shall do in the premises you shall certify to Us in Our said High Court of Justice before Us, at Toronto, on the _____ day of _____ Term next, together with this Writ; and herein fail not at your peril.

Witness the Honourable _____, Chief Justice, &c. (*as in other Writs issued out of the said Court.*)

R. S. O. 1877, c. 27, Sched. A.

SCHEDULE B.

(Section 11.)

WRITS OF FIERI FACIAS AND CAPIAS AD SATISFACIENDUM.

Province of Ontario.

Victoria, by the Grace of God, &c.

To the Sheriff of _____, Greeting :

Whereas by a certain conviction had before _____, two of Our Commissioners appointed under the Great Seal of Our Province of Ontario, by

virtue of Chapter twenty-nine of *The Revised Statutes of Ontario*, to prevent trespasses to Public Lands, it was considered by the said Commissioners (*here set out the conviction*), which said conviction for certain reasons We caused to be certified to Us in Our High Court of Justice at Toronto, according to the form of the Statute in such case made and provided; We therefore, being willing to be satisfied the said fine so by the Commissioners set and imposed upon the said , do hereby command you that you levy of the goods and chattels of the said , in your County, the amount of the said fine so set and imposed upon him as aforesaid, so that you may have that money in Our said High Court of Justice before Us, at Toronto, on the day of next; and if it shall happen that sufficient goods and chattels of the said shall not be found in your County for payment of the said fine, then, We command you that you levy of the lands and tenements of the said , in your County, the amount of the said fine so set and imposed on him as aforesaid, and have that money in Our said Court before Us on the day and at the place aforesaid; and if it shall happen that sufficient neither of goods nor chattels nor lands nor tenements of the said shall be found in your County for payment of the said fine, then, We command you that you take the body of the said wheresoever he shall be found in your County, and him safely keep in your prison until he hath fully satisfied Us, the said fine so set and imposed upon him as aforesaid: and in what manner you shall have executed this Our Command make appear to Us in Our said Court, before Us, on the day and at the place aforesaid, and have then there this Writ.

Witness the Honourable
Writs issued out of the said Court.)

Chief Justice (*as in other*

R. S. O. 1877, c. 27, Sched. B.

CHAPTER 30.

An Act respecting the Clergy Reserves.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The moneys arising from the Clergy Reserves in Ontario shall form a separate Fund, to be called "The Ontario Municipalities Fund," which shall consist of,

Ontario Municipalities Fund.

(a) All moneys arising from the sale of Clergy Reserves in Ontario, whether now funded or invested either in the United Kingdom or in Canada, or remaining uninvested, or to arise from such sales;

(b) The interest and dividends of moneys forming part of such Fund;

(c) The interest upon sales of Clergy Reserves on credit, and

(d) Rents, issues and profits arising from Clergy Reserves demised or to be demised for any term of years, and other casual and periodical incomings arising from Clergy Reserves,

after deducting therefrom any sums chargeable against the said fund and the actual and necessary expenses attending the sales of the said Clergy Reserves, and of managing the same and the Fund aforesaid. R. S. O. 1877, c. 28, s. 1; 50 V. c. 5, s. 1.

Moneys to be paid to the Provincial Treasurer for the purposes of this Act.

2. The moneys forming the said Fund shall be paid into the hands of the Provincial Treasurer, and shall be by him applied to the purposes hereinafter mentioned, under the authority of this Act, or any general or special Order or Orders to be made by the Lieutenant-Governor in Council. R. S. O. 1877, c. 28, s. 2.

Appropriation of unappropriated balance.

3. The amount of the Municipalities Fund remaining unexpended and unappropriated under the foregoing provisions, on the thirty-first day of December in each year, shall be added to the amount voted by the Legislature for the support of Public and Separate schools for the succeeding year, and shall by the Minister of Education be included in the distribution of the Legislative grant to the several municipalities as provided by *The Public Schools Act*. 50 V. c. 5, s. 2.

Repeal of certain parts of Imperial Act, 3-4 V. c. 78.

4. So much of the Act of the Imperial Parliament, passed in the session held in the third and fourth years of the reign of Her Majesty Queen Victoria, and chaptered 78, as limits the quantity of lands forming part of the Clergy Reserves which may be sold in any one year without the previous approbation in writing of one of Her Majesty's Principal Secretaries of State, and so much of the said Act as makes any appropriation of moneys forming part of the Clergy Reserves Fund, or arising from the sales of Clergy Reserves, other than is made by this Act, and so much of the said Act as is inconsistent with this Act is repealed. R. S. O. 1877, c. 28, s. 9.

Certain land to be deemed part of Clergy Reserves.

5. Lands which have, under the authority of any Act at the time in force, been accepted in exchange for lands originally forming part of the Clergy Reserves in any part of this Province, shall be deemed to be Clergy Reserves for all the purposes of this Act. R. S. O. 1877, c. 28, s. 10.

CHAPTER 31.

An Act respecting Mining.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

ROYALTIES ON MINERALS AND RESERVATIONS OF MINES IN PATENTS REPEALED, ss. 3, 4.

NO RESERVATION OF MINES TO BE MADE IN PATENTS, s. 5.

CROWN LANDS MAY BE EXPLORED FOR MINES, s. 6.

SALE OF MINING LOCATIONS, ss. 7-12.

Form and size of location, s. 9.

Survey, s. 10.

Price, s. 11.

Reservation of timber, s. 12.

MINING DIVISIONS, s. 13.

INSPECTOR AND OFFICERS, ss. 14, 15.

MINING LICENSES, s. 16.

POWER OF LICENSEES, ss. 17, 18.

DIMENSIONS OF MINING CLAIMS, ss. 19, 20.

NOTICE OF CLAIMS TO BE GIVEN TO INSPECTOR, s. 21.

FORFEITURE OF CLAIM—

For failure to give notice, s. 21.

For failure to work, ss. 22, 23.

ONLY ONE CLAIM TO BE OCCUPIED AT A TIME, s. 24.

LICENSE TO BE EXHIBITED, s. 25.

DISCOVERIES OF NEW MINES, ss. 26, 27.

PARTY WALLS, ss. 28, 29.

LICENSEES NOT TO DAMAGE OTHER CLAIMS, s. 30.

REGISTRATION TO PRESERVE CLAIMS RENDERED TEMPORARILY UNWORKABLE, ss. 31, 32.

CONSTABLES IN MINING DIVISIONS, s. 33.

RIOTS IN MINING DIVISIONS, s. 34.

REGULATIONS BY LIEUT.-GOVERNOR, s. 35.

PENALTIES, ss. 36-40.

INSPECTORS TO HAVE NO INTEREST IN MINING CLAIMS, s. 41.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

1. This Act may be cited as "*The General Mining Act*." Short title. R. S. O. 1877, c. 29, s. 1.

2. Where the following words occur in this Act, and in Interpretation. Orders in Council, or regulations under it, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :—

1. The verb "mine," and the participle "mining," shall mean "Mine" and include any mode or method of working whatsoever, "mining." whereby the soil or earth, or any rock, stone, or quartz, may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed, or otherwise dealt with for the purpose of obtaining any metal or metals therefrom, whether the same may have been previously disturbed or not.

2. "Mines" shall mean and include all rocks, soils, or strata, "Mines." containing any metal or metals, and all places where the work of mining as above defined may be carried on.

"Mining division."

3. "Mining Division" shall mean and include any tract of country declared to be a Mining Division within this Act.

"Crown lands."

4. "Crown Lands" shall mean and include all Crown Lands School Lands, or Clergy Lands, not in the actual use or occupation of the Crown, or of any public department of the Government of the Dominion of Canada or of this Province, or of any officer or servant thereof, and not under lease or license of occupation from the Crown or the Commissioner of Crown Lands, and as to which no adverse claim exists, which is subsequently recognized by the Commissioner of Crown Lands.

"Party wall."

5. "Party wall" shall mean a bank of earth or rock left between two excavations. R. S. O. 1877, c. 29, s. 2.

All royalties, etc., reserved by any patent repealed.

3. All royalties, taxes or duties which, by any patent or patents heretofore issued, have been reserved, imposed or made payable upon, or in respect of any ores or minerals extracted from the lands granted by such patents, and lying within this Province, are hereby repealed and abandoned; and such lands, ores and minerals, shall henceforth be free and exempt from every such royalty, tax or duty. R. S. O. 1877, c. 29, s. 3.

Reservations of gold and silver mines in any patent already issued rescinded.

4. Reservations of gold and silver mines contained in any patent heretofore issued, granting in fee simple land or lands situate within this Province, are hereby rescinded and made void, and all such mines in or upon such lands shall be deemed to have been granted in fee simple as part of such lands, and to have passed with such lands to the subsequent and present proprietors or owners thereof in fee simple. R. S. O. 1877, c. 29, s. 4.

No reservations in patents of mining lands.

5. No reservation or exception of gold, silver, iron, copper or other mines or minerals, shall be inserted in any patent from the Crown granting lands in this Province sold as mining lands. R. S. O. 1877, c. 29, s. 5.

Crown lands may be explored for mines, etc.

6. Any person or persons may explore for mines or minerals on any Crown Lands, surveyed or unsurveyed, and not for the time being marked or staked out and occupied as hereinafter mentioned. R. S. O. 1877, c. 29, s. 6.

Crown lands may be sold as mining lands, etc.

7. Crown Lands supposed to contain mines or minerals may be sold as mining lands, or may, when situate within a Mining Division, be occupied and worked as "mining claims" under miners' licenses, as hereinafter provided. R. S. O. 1877, c. 29, s. 7.

Mining locations.

8. Such lands so sold, when situate in unsurveyed territory, or in Townships surveyed in sections, shall be sold in blocks to be called "mining locations." R. S. O. 1877, c. 29, s. 8.

Form and size of mining locations.

9. Mining locations under this Act shall conform to the following requirements:—

1. In the unsurveyed territory to the north or north-west of the River Mattawan, Lake Nipissing and the French River, including the territory bordering upon Lakes Huron and Superior, and the River St. Mary, every regular mining location shall be rectangular in shape, and the bearings of the out-lines thereof shall be due north and south and due east and west astronomically; and such location shall be of one of the following dimensions, namely, eighty chains in length by forty chains in width, containing three hundred and twenty acres, or forty chains square, containing one hundred and sixty acres, or forty chains in length by twenty chains in width, containing eighty acres.

Territory bordering on lakes Superior and Huron, French River, etc.

2. Where a mining location in the unsurveyed lands in the territory aforesaid, borders upon a lake or river, a road allowance of one chain in width shall be reserved along the margin of the lake or river; and the width of the location shall front on the road allowance; and the bearings of the other out-lines of the location shall be due north and south, and due east and west astronomically; and the location shall otherwise conform to the requirements of the preceding sub-section as nearly as the nature of the land will admit.

When locations border on lakes and rivers in said territory.

3. In the townships in the said territory surveyed, or hereafter to be surveyed in sections, every mining location, after such survey, shall consist of a half section, a quarter section; or an eighth of a section.

When in townships in said territory surveyed in sections.

4. In all patents for mining locations in the territory aforesaid, there shall be a reservation for roads of five per centum of the quantity of land professed to be granted.

Reservation for roads.

5. In the unsurveyed lands not situate within the limits of the territory aforesaid, mining locations shall be as may be defined by any Order in Council hereafter to be made. R. S. O. 1877, c. 29, s. 9.

Locations in other unsurveyed territory.

10. Mining locations in unsurveyed territory shall be surveyed by a Provincial Land Surveyor, and be connected with some known point in previous surveys, or with some other known point or boundary (so that the tract may be laid down on the office maps of the territory in the Crown Lands Department), at the cost of the applicants, who shall be required to furnish, with their application, the surveyor's plan, field notes and description thereof, shewing a survey in accordance with this Act, and to the satisfaction of the Commissioner of Crown Lands. R. S. O. 1877, c. 29, s. 10.

How mining locations in unsurveyed territory to be surveyed.

11. The price of all Crown Lands to be sold as mining locations in the said territory, mentioned in sub-section 1 of section 9 of this Act, shall be \$2 per acre. R. S. O. 1877, c. 29, s. 11; 49 V. c. 8, s. 1.

Price of locations.

12. The patents for all Crown Lands, hereafter to be sold as mining lands, shall contain a reservation of all pine trees standing

Pine trees reserved.

Patentees may use timber for building, fencing, etc., on the land.

Timber cut to be subject to dues.

Mining divisions, how to be declared.

Appointment and powers of Inspectors of mining divisions.

Inspector to be a Justice of the Peace.

Power to settle disputes between licensees.

or being on the said lands, which pine trees shall continue to be the property of Her Majesty; and any person now or hereafter holding a license to cut timber or saw logs on such lands, may, at all times, during the continuance of the license, enter upon such lands, and cut and remove such trees, and make all necessary roads for that purpose; but the patentees, or those claiming under them, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel, on the land so patented, or for any other purpose essential to the working of the mines thereon; and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation; but no pine trees (except for the said necessary building, fencing and fuel, or other purpose essential to the working of the mine), shall be cut beyond the limit of such actual clearing; and all pine trees so cut and disposed of (except for the said necessary building, fencing and fuel, or other purpose aforesaid), shall be subject to the payment of the same dues, as are at the time payable by the holders of licenses to cut timber or saw logs. R. S. O. 1877, c. 29, s. 12.

13. The Lieutenant-Governor in Council may, from time to time by Order in Council, declare such tract of country as may be described in and by the Order in Council a "Mining Division;" and by any other subsequent Order or Orders in Council may, from time to time, extend, add to or diminish the limits of the Division, or may otherwise amend, or may cancel such Order in Council; and, from and after the publication in the *Ontario Gazette* of such Order in Council, the Mining Division therein mentioned and described, and all mines on Crown Lands situate in the Division, shall be subject to the provisions of this Act, and to any regulations to be made under this Act. R. S. O. 1877, c. 29, s. 13.

14. The Lieutenant-Governor may appoint, for every Mining Division, or for any part thereof, an Inspector, who shall be under the direction of the Commissioner of Crown Lands, and, by Order in Council, may prescribe the duties and fix the salary of such Inspector. R. S. O. 1877, c. 29, s. 14.

15.—(1) Every Inspector shall be *ex officio* a Justice of the Peace of the County or United Counties, District or Districts, which a Mining Division comprehends or includes, in whole or in part, or in which, or in any portion of which, a Mining Division lies; and it shall not be necessary that he shall possess any property qualification whatever in order to enable him lawfully to act as such Justice of the Peace.

(2) Every Inspector shall have jurisdiction as a Justice of the Peace over all the territory comprised within the Division for which he is appointed, and shall have power to settle summarily all disputes between licensees as to the existence or

forfeitures of mining claims, and the extent and boundary thereof, and as to the use of water and access thereto, and generally, to settle all difficulties, matters or questions between licensees which may arise under this Act; and the decision of such Inspector, in all cases under this Act, shall be final, except where otherwise provided by this Act, or where another tribunal is appointed under the authority of this Act; and no case under this Act shall be removed into any Court by writ of *certiorari*. R. S. O. 1877, c. 29 s. 15.

16.—(1) The Inspector of a Mining Division may, on payment to him of a fee of \$5, grant to the party applying for the same, a license to be called a “miner’s license.”

(2) Every miner’s license shall be in force for one year from the date thereof, and shall not be transferable; and only one person shall be named therein, who shall be called the licensee, and who, before the expiration of the license, or within not later than ten clear days thereafter, shall have the right to a renewal of the license, by the Inspector for the Division, on payment to him of the like fee of \$5, or such other sum as may then be the fee fixed by law for miner’s licenses.

(3) A miner’s license may be in the following form:—

PROVINCE OF ONTARIO.

No.	(Name of Division)	Mining Division.	\$5.
(Date.)		18	
Miner's License—Not Transferable.			

Issued to A. B., under the provisions of *The General Mining Act*, to be in force for one year from the date thereof.

C. D., Inspector of
Mining Division.

R. S. O. 1877, c. 29, s. 16.

17. A miner’s license shall authorize the licensee personally and not through another, to mine during one year from the date of the license, and from the date of any renewal thereof, on any mining claim marked or staked out by such licensee on Crown Lands, as hereinafter provided; but any person or persons not occupying any other mining claim, may be employed by the licensee to assist him in working such claim. R. S. O. 1877, c. 29, s. 17.

18. The licensee shall have the right to mark or stake out within the Division mentioned in his license, a mining claim on any Crown Lands (not for the time being included in a mining claim occupied by another licensee), by planting a wooden or iron picket at each of the four corners thereof, or otherwise marking the same as may be directed by Order in Council, and to work the same. R. S. O. 1877, c. 29, s. 18.

Dimensions of claims.

19. Each mining claim shall be of the following dimensions namely:—

1. For one person, two hundred feet along a vein or lode by one hundred feet on each side thereof, measuring from the centre of the vein or lode.
2. Companies of two or more persons who each hold a miner's license, may stake out and work additional feet along a vein or lode by the above width in the proportion of one hundred additional feet in length for every additional miner, not to exceed one thousand feet in length altogether, and may work the claim jointly. R. S. O. 1877, c. 29, s. 19.

Rules as to laying out claims.

20. Mining claims shall be laid out as far as possible, uniformly, and in quadrilateral and rectangular shapes; and the measurements of all such claims shall be horizontal; and the ground included in every claim shall be deemed to be bounded under the surface by lines vertical to the horizon; except that every mining claim shall include and shall authorize the licensee to work every dip, spur, and angle of the vein or lode laterally to the depth to which the same can be worked, with all the earth and minerals therein. R. S. O. 1877, c. 29, s. 20.

Forfeiture of claims by failure to notify inspector,

21. Every Inspector appointed under this Act, shall keep a book for the recording therein of mining claims, which book shall be open to inspection by any person on payment of a fee of twenty cents; and every licensee who has marked or staked out a mining claim under this Act, shall within thirty days thereafter, give a notice thereof in writing to the Inspector of the Division, stating the name of the licensee, and indicating, by some general statement therein, the locality of the mining claim, and shewing how and when the same was marked or staked out; and the Inspector shall thereupon forthwith record the particulars of the notice in the book; and, if the licensee fails to give notice within the time aforesaid, the mining claim so marked or staked out shall be deemed to be forfeited and abandoned, and all right of the licensee therein to cease. R. S. O. 1877, c. 29, s. 21.

and by allowing same to remain unworked.

22. A mining claim shall also be deemed to be forfeited and abandoned, and all right of the licensee therein to cease, in case the mining claim remains unworked for the space of three months after the same has been first marked or staked out as aforesaid, or if the same at any time, after the expiration of three months, remains unworked for the space of fifteen days; Provided, however, that in case it is shewn to the satisfaction of the Inspector of the Division, either before the expiration of the respective periods aforesaid, or within fifteen days thereafter, that the non-working of such claim arose from the illness of the licensee, or other reasonable cause satisfactory to the Inspector, he may extend the time during which the mining claim may remain unworked for such

Proviso.

further period of time as he thinks reasonable, and may in like manner, thereafter, for reasonable cause established to his satisfaction, grant further extensions of the time during which the claim may remain unworked without being liable to forfeiture; and the Inspector shall forthwith enter in the said book all enlargements or extensions of the time granted by him. R. S. O. 1877, c. 29, s. 22.

23. No mining claim within a Division shall be considered unworked, within the meaning of the last section, during the time that an Order in Council directs that work on mining claims within such Mining Division may be suspended. R. S. O. 1877, c. 29, s. 23. Exception.

24. No person shall occupy at the same time more than one mining claim on Crown Lands, except in the cases hereinafter provided for of registration of claims rendered temporarily unworkable. R. S. O. 1877, c. 29, s. 24. No person to occupy more than one claim.

25. Every licensee shall be held and required to produce and exhibit his license to the Inspector for the Division, and to prove, to the satisfaction of the Inspector, that the license is in force, whenever required to do so by him. R. S. O. 1877, c. 29, s. 25. License to be exhibited to inspector on demand.

26. The discoverer of a new mine shall be entitled to two mining claims of the area prescribed by sub-section 1 of section 19 of this Act. R. S. O. 1877, c. 29, s. 26. Right of discoverer of new mine.

27. No person shall be considered the discoverer of a new mine unless the place of the alleged discovery is distant, if on a known vein or lode, at least three miles from the nearest known mine on the same vein or lode. R. S. O. 1877, c. 29, s. 27. What deemed a discovery.

28. A party wall of at least three feet thick shall be left between every mining claim on Crown lands, which party wall shall be used in common by all parties as a mode of access to the stream, where one exists; and the party wall shall not be obstructed by any person throwing soil, stone or other material thereon; and every person so obstructing the party wall, shall be liable to a fine of not more than \$5 and costs; and, in default of payment of the fine and costs, to be imprisoned for any period not more than one month. R. S. O. 1877, c. 29, s. 28. Party walls to be left between claims, and kept clear. Penalty.

29. If at any time it is found necessary or expedient to remove a party wall as aforesaid, the person so removing it shall, if required so to do, construct a new mode of access to the water in no wise more difficult as an approach than the one destroyed by the removal of the party wall, under a like penalty, as provided in the next preceding section; and in case of a removal of a party wall, the minerals found therein shall Person removing party wall to construct new mode of access to water.

belong to the owners of the adjoining claims, each of whom shall own the half next to his claim. R. S. O. 1877, c. 29, s. 29.

Crown lands
licensees not to
damage other
claims.

30. No person mining upon Crown lands shall cause damage or injury to the holder of any other claim than his own, by throwing earth, clay, stones or other material upon such other claim, or by causing or allowing water which may be pumped or bailed or may flow from his own claim to flow into or upon such other claim, under a penalty of not more than \$5 and costs; and, in default of payment of the fine and costs, he may be imprisoned for any period not more than one month. R. S. O. 1877, c. 29, s. 30.

Penalty.

Provision for
registration of
claim rendered
unworkable
for a time.

31. In case a mining claim on Crown lands occupied by a licensee cannot be worked in consequence of an excess of water or other unavoidable cause, established to the satisfaction of the Inspector for the Division, the Inspector shall, on the application of the licensee, and on receipt of \$1, make an entry in the book, to be kept by him as aforesaid; of the cause or reason for the claim not being worked; and thereupon and upon the licensee planting a wooden or iron picket as near the centre of the claim as possible, upon which is cut or painted his name or initial letters of his name, the licensee may occupy and work another mining claim; but, in case the licensee does not return and occupy the first mentioned claim within fifteen days after the adjacent or surrounding claim or claims have been shewn to be workable, he shall forfeit all right and title to the said claim. R. S. O. 1877, c. 29, s. 31.

Penalty for re-
moving picket.

32. Any person found removing or disturbing, with intent to remove, any stake, picket, or other mark placed under the provisions of this Act, shall forfeit and pay a sum not exceeding \$20 and costs; and in default of payment of the fine and costs may be imprisoned for any period not exceeding one month. R. S. O. 1877, c. 29, s. 32.

Appointment
of constables
in mining
divisions.

33. Every Inspector appointed in and for a Mining Division under this Act may appoint any number of constables not exceeding four; and the persons so from time to time appointed shall be, and they are hereby constituted, respectively, constables and peace officers for the purposes of this Act, for and during the terms, and within the Mining Divisions, for which they are appointed respectively. R. S. O. 1877, c. 29, s. 33.

Act respecting
riots near pub-
lic works to be
in force in
mining divi-
sions.

34.—(1) The Lieutenant-Governor in Council may, as often as occasion requires, declare by proclamation that he deems it necessary that *The Act respecting Riots near Public Works*, shall, so far as the provisions therein are applicable, be in force within any Mining Division or Divisions; and upon, from, and after the day to be named in any such proclamation, section 1 and sections 3 to 11 inclusive of the said Act shall, so far as the provisions thereof

Rev. Stat.
c. 34.

can be applied therein, take effect within the Mining Division or Mining Divisions designated in the proclamation; and the provisions of the said Act shall apply to all persons employed in any mine, or in mining within the limits of such Mining Division or Divisions, as fully and effectually to all intents and purposes as if the persons so employed had been specially mentioned and referred to in the said Act.

(2) The Lieutenant-Governor in Council may, in like manner, from time to time declare the said Act to be no longer in force in such Mining Division or Divisions; but this shall not prevent the Lieutenant-Governor in Council from again declaring the same to be in force in any such Mining Division or Mining Divisions; and no such proclamation shall have effect within the limits of any City. R. S. O. 1877, c. 29, s. 34.*

35. The Lieutenant-Governor in Council may, from time to time, make such regulations as he deems necessary or expedient, for the appointment of arbitrators or Mining Boards to hear and determine appeals from the decisions of Inspectors of Divisions; for the prescribing, defining and establishing the powers, duties and mode of procedure of the arbitrators or Mining Boards; for the opening, construction, maintenance and using of roads through or over mining claims, mining locations or lands hereafter sold as mining lands; and for the opening, construction, maintenance and using of ditches, aqueducts or raceways, through or over such claims, locations or lands for the conveyance and passage of water for mining purposes, and generally for the purpose of carrying out this Act; and such regulations, after publication in the *Ontario Gazette*, shall have the force and effect of law. R. S. O. 1877, c. 29, s. 35.

Lieutenant-Governor in Council may make regulations.

36. Every person contravening this Act, or any rule or regulation made under it, in any case where no other penalty or punishment is imposed, shall, for every day on which such contravention occurs, or continues or is repeated, incur a fine of not more than \$20 and costs; and, in default of payment of the fine and costs, he may be imprisoned for a term of not more than one month. R. S. O. 1877, c. 29, s. 36.

Penalty for contravening this Act.

37. Every Inspector for a Mining Division may convict upon view of any of the offences punishable under the provisions of this Act, or any regulations made under it. R. S. O. 1877, c. 29, s. 37.

Inspector may convict on view.

38. The contravention on any day of any of the provisions of this Act, or of any regulation made under it, shall constitute a separate offence and may be punished accordingly. R. S. O. 1877, c. 29, s. 38.

Separate offence.

Application of
fees, fines, and
penalties.

39. Fees, penalties and fines received under this Act, and the costs of all such convictions as take place before any Inspector or Magistrate appointed under this Act, shall form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly; and the expenses of carrying this Act into effect, in any Mining Division or Mining Divisions, shall be paid by the Lieutenant-Governor out of the said Consolidated Revenue Fund. R. S. O. 1877, c. 29, s. 39.

Mode of trial
by Inspector
or Justices.

40. The Inspector of any Mining Division, or any two Justices of the Peace, having jurisdiction in the locality, may try and summarily convict any person guilty of any offence under this Act, or of any breach of the provisions thereof, to which any fine or penalty, or forfeiture of money is attached, and shall have all the powers of Justices of the Peace under *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions*; but this section shall not be construed to give jurisdiction to try or summarily convict for any breach of the provisions of the next section of this Act. R. S. O. 1877, c. 29, s. 40.

Inspector to
have no inter-
est in mining
claims, etc.

41. No Inspector, appointed under this Act, shall, either directly or indirectly, while he is Inspector, purchase or be or become proprietor of, or interested in, any Crown Lands or mining claim within the Division for which he is Inspector; and any such purchase or interest shall be void; and if an Inspector offends in the premises, he shall forfeit his office and the sum of \$500 for every such offence, to be recovered in an action by any person who sues for the same. R. S. O. 1877, c. 29, s. 41.

Penalty.

CHAPTER 32.

An Act to regulate the Fisheries of this Province

SHORT TITLE, s. 1.	CANCELLATION OF LEASES, ETC., s. 19.
APPLICATION OF ACT, s. 2.	RIGHTS AND LIABILITIES OF LESSEES,
INTERPRETATION, s. 3.	ss. 20, 21.
LEASES AND LICENSES, ss. 4-8.	RESERVATION FROM LEASE, s. 22.
PENALTY FOR TRESPASS, s. 9.	LEASE OF WATERS IN WHICH INDIANS
RIGHTS OF PASSAGE, s. 10.	ALLOWED TO FISH, s. 23.
FISHERY OVERSEERS, ss. 11, 12, 14.	SETTING APART WATERS FOR PROPA-
REGULATIONS BY GOVERNOR IN	GATION OF FISH, s. 24.
COUNCIL, s. 13.	PERMISSION TO OBTAIN FISH, s. 25.
GUARDIANS FOR PROTECTION OF	PENALTIES, ss. 26-29.
FISHERIES, s. 15.	APPLICATION OF FINES AND PENAL-
RETURNS BY LESSEES, s. 16.	TIES, s. 30.
CONTROL OF FISHING RIGHTS PERTAIN-	CERTAIN ACTS TO APPLY TO PROSE-
ING TO GRANTED LANDS MAY BE	CUTIONS, s. 31.
ASSUMED BY COMMISSIONER, s. 17.	REPORTS TO BE LAID BEFORE LEGIS-
PERMITS, s. 18.	LATURE, s. 32.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Fisheries Act*." Short title. 48 V. c. 9, s. 1.

2. This Act and its respective provisions apply to all fisheries and rights of fishing in respect of which the Legislature of Ontario has authority to legislate. 48 V. c. 9, s. 2. Application of Act.

3. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:— Interpretation.

1. "Crown Lands" shall be held to mean and include such ungranted Crown or Public lands or Crown domain as are within and belong to the Province of Ontario, and whether or not any waters flow over or cover the same. "Crown Lands."

2. "Fish" shall mean and include every kind, variety and description of fish in respect of the catching or killing of which within the Province the Legislature of Ontario has authority to legislate. "Fish."

3. "Waters" shall be held to mean and include such of the waters of any lake, river, stream or water-course wholly or partly within said Province, as flow over or cover any Crown Lands. "Waters."

"Commissioner."

4. "Commissioner" shall mean the Commissioner of Crown Lands.

"Fishery Lease."

5. "Fishery Lease" shall be held to include and mean a lease or instrument conferring for a term therein mentioned upon the lessee therein named the right to take and keep, for the purposes of fishing, under and subject to the provisions of this Act and of all regulations made thereunder, the exclusive possession of any Crown Lands therein described, with the exclusive right to fish in any waters flowing over or covering the same at such time and in such manner and with such restrictions and subject to such regulations as may be permitted, regulated or prescribed by any lawful authority in that behalf.

"Fishing License."

6. "Fishing License," shall be held to mean and include a license granting for the time therein mentioned to the licensee therein named, upon payment of the license fee therein stipulated, a right to fish in any waters flowing over or covering ungranted Crown Lands therein described, at such time, in such manner and with such restrictions and subject to such regulations as may be permitted, regulated or prescribed by any lawful authority in that behalf, but no fishing license shall be deemed to be, or be construed to operate as or in the nature of a lease or demise. 48 V. c. 9, s. 3.

Issue of leases and licenses.

4. Subject to the other provisions of this Act, every fishery lease and every fishing license shall be granted and issued by the Commissioner but subject always to such conditions, regulations and restrictions as may from time to time be made, ordered or established in that behalf by the Lieutenant-Governor in Council, and published in the *Ontario Gazette*: Provided, however, that no lease or license shall be granted or issued in respect of or as including any lands or waters where an exclusive right of fishing already exists by law. 48 V. c. 9, s. 4.

Proviso.

Leases to be made at annual rental.

5. A fishery lease shall not be granted for a longer period than five years from the date thereof, and shall only be made to the highest bidder of an annual rental therefor after the same shall have been put up to public competition, of which at least one month's notice shall be given in the *Ontario Gazette*, and in such other way as to the Commissioner may seem the most advantageous; provided always that the price offered be at least equal to the upset price fixed by the Commissioner, and that if not sold, the Commissioner may afterwards, by private sale, dispose of the said lease at the upset price, or for a greater sum; and the signature of the Commissioner to the lease shall be evidence in all Courts of a compliance with the provisions of this section. 48 V. c. 9, s. 5.

Proviso.

Forfeiture for non-payment.

6. The rental shall be paid in advance, and a lessee who fails to pay the rental at the date fixed by his fishery lease shall

forfeit all rights thereunder, and the same may be thereupon annulled by the Commissioner of Crown Lands, and may be again put up to sale, but notwithstanding the annulling of the lease, the lessee shall be liable at the suit of Her Majesty for the annual rental and the expenses incurred by the lease being again put up to sale. 48 V. c. 9, s. 6.

7. No lessee or licensee shall have the right to sublet, transfer or assign any right, interest or privilege granted or conferred upon him under the provisions of this Act, without first receiving the written consent of the Commissioner, or some other person authorized to that effect. 48 V. c. 9, s. 7.

Transfer of leases.

8. If in consequence of any incorrectness of survey or other error or cause whatsoever, a fishery lease is found to comprise lands included in a fishery lease of a prior date, the fishery lease last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the lease so rendered void shall have no claim for indemnity or compensation by reason of such avoidance. 48 V. c. 9, s. 8.

Lessee not entitled to compensation in case of deficiency by reason of error.

9. If any person shall enter upon or pass over the land described in a fishery lease without permission of the lessee or his representative, he shall, on conviction thereof incur and pay a fine of not less than \$1 nor more than \$10, with costs of prosecution, for each offence, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county, within which the offence was committed, for a period not exceeding one month; provided, however, that this section shall not apply to any person entering upon or passing over the lands in discharge of any duty imposed by law, nor, when the lands are included in a timber license, to the holder thereof, who shall at all times have the right to cut and take away all trees, timber and lumber within the limits of his license; nor to prevent the owners or occupiers of lands bordering on any waters to a general right of passage to and from such waters; nor the public user of any waters, or the banks thereof, either for the conveyance of lumber of any kind, or for the free navigation thereof by vessels, boats, or other craft; nor to any user under license by the Crown of any such lands or waters for any purpose or occupation not inconsistent with the provisions of this Act. 48 V. c. 9, s. 10.

Penalty in case of trespass.

Proviso.

10.—(1) Every fishery lease shall be deemed and taken to have been made and granted subject to a right of passage to and from any waters in favour of the occupants, if any, under title from the Crown, of the lands immediately in rear of those included in the fishery lease.

Rights of passage.

(2) In the discharge of his duties every fishery overseer, and every person by him accompanied or authorized to such effect, may enter upon and pass through or over private property without being liable for trespass. 48 V. c. 9, s. 11.

Appointment
of Fishery
Overseers.

11. The Lieutenant-Governor in Council may, if he considers it expedient, appoint Fishery Overseers, whose duties shall be defined by the regulations made under this Act, and every overseer so appointed and having taken the oath of office prescribed by this Act, shall be, *ex-officio*, a Justice of the Peace for all the purposes of this Act and of any regulations made under authority thereof within the county or district for which he is appointed to act as overseer. 48 V. c. 9, s. 12.

Oath of
Overseer.

12. Every fishery overseer shall, before acting as a Justice of the Peace under this Act, take and subscribe the following oath:—

“I, A. B., a Fishery Overseer in and for the district or territory described in my appointment, do solemnly swear that, to the best of my judgment, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such overseer according to the true intent and meaning of *The Ontario Fisheries Act*, and of all regulations made or to be made thereunder. So help me God.”

48 V. c. 9, s. 13.

Regulations
may be made
by Lieutenant-
Governor in
Council.

13.—(1) So far as the Legislature of Ontario has authority so to enact, the Lieutenant-Governor in Council may, from time to time, make regulations, and may from time to time vary, amend, and alter all and every such regulation as shall be found necessary or deemed expedient for the better management and regulation of Crown lands leased under the operation of this Act and the fishing rights theretopertaining, or of any fishing license which may be made or granted under the operation of this Act; and to prevent the destruction of fish, and to forbid fishing in any waters except under authority of a fishery lease or fishing license; and all regulations shall have the same force and effect as if herein contained and enacted, and every offence against any regulation may be stated as having been made in contravention of this Act.

(2) The publication of any regulation in the *Ontario Gazette*, shall be sufficient notice to give legal effect to the same; and the production of a copy of a paper purporting to be the *Ontario Gazette*, and containing any regulation shall, so far as the Legislature of Ontario has authority so to enact or direct, be admitted as full and sufficient evidence of the same, in all Courts. 48 V. c. 9, s. 14.

Remuneration
of Overseers,
etc.

14. The remuneration of the Fishery Overseers and of all other persons employed to perform any duty imposed by this Act or by the regulations made under it, shall be determined by the Lieutenant-Governor in Council, and shall be paid out of moneys derived under the provisions of this Act, and appropriated for that purpose by vote of the Legislative Assembly. 48 V. c. 9, s. 15.

Appointment
of guardians

15.—(1) The Commissioner may, upon the request of any lessees of fishery leases; or without such request, appoint as many

guardians as may be deemed necessary for the effectual protection of the fisheries, or rights of fishing in any waters; such guardians shall be sworn to the faithful discharge of their duties, and especially to prevent the taking or killing, or attempting to take or kill fish in the waters under their charge by illegal means, or at times when the taking or killing of fish is prohibited by lawful authority; they shall be employed for such length of time as the Commissioner shall consider necessary, and their services shall be paid for by the lessees.

for protection
of fisheries.

(2) If thereunto required by the Commissioner a lessee shall keep and maintain, at his own expense, within the limits granted to or conferred upon him by a fishery lease, and for such time or times as the Commissioner may in that behalf prescribe, one or more efficient guardians, whose duties shall in all respects be the same as those of the guardians in the preceding sub-section mentioned. 48 V. c. 9, s. 16.

16. It shall be a condition of every Fishery Lease that the lessee shall, as soon as possible after the close of every fishing season, transmit to the Department of Crown Lands a statement of the number and weight of fish caught in the waters affected by the lease. 48 V. c. 9, s. 17.

Returns by
lessees.

17. The Commissioner may, with the consent of the owners, and for the purposes of management only, assume the control of fishing rights pertaining to granted lands fronting on any stream, river or lake, with a view of improving or leasing the same in connection with those pertaining to Crown Lands fronting on the same stream, river or lake, and paying over to the private owners of such fishing rights a proportionate share of the rent received for the whole. 48 V. c. 9, c. 18.

Control of fish-
ing rights per-
taining to
granted lands
may be
assumed by
Commis-
sioner with
consent of
owner.

18. It shall be lawful for the Commissioner, or any officer thereto authorized by him, to grant permits to fish in any waters adjoining Crown Lands not under lease for a period not exceeding one month, upon such terms and subject to such restrictions and conditions as shall be provided by order of the Lieutenant-Governor in Council to that effect. 48 V. c. 9, s. 19.

Fishing
permits.

19. Any fishery lease, or fishery license or permit held by any person, convicted of any contravention of this Act, or of any regulations made and published as aforesaid, may be annulled and cancelled by the Commissioner, and thereupon such person shall forfeit all his rights and privileges under such lease, license or permit, and shall not be entitled to or have any claim or right to any indemnity or compensation in respect thereof. 48 V. c. 9, s. 20.

Cancellation
of leases, etc.

20. A fishery lease shall entitle the lessee to institute in his own name any action, or proceeding against any person unlawfully trespassing upon, damaging or invading the

Lessee to
have right o
action for
trespass.

rights, property, premises or privileges granted by the lease, and also to sue for and recover any damages sustained by him as such lessee. 48 V. c. 9, s. 21.

Liability of lessee for damage to lands included in lease.

21. Every lessee to whom a fishery lease is granted, shall be answerable for damage done to the lands in the lease described, and the timber growing thereon, or on adjoining lands, either by himself or his agents, or persons under his control, either from waste or from want of sufficient precautions in lighting, watching over or extinguishing fires; and it shall be incumbent on every lessee, in case of damage caused by fire, to prove that all such precautions have been taken. 48 V. c. 9, s. 22.

Waters may in certain cases be reserved from lease.

22. It shall be lawful for the Lieutenant-Governor in Council, upon the recommendation of the Commissioner, to reserve from lease for one or more years, for purposes of improvement, any waters, the exclusive right of fishing in which is within the meaning of section 2 of this Act. 48 V. c. 9, s. 23.

Lease of waters in which Indians allowed to fish.

23. The Commissioner may appropriate and license or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in and at whatever manner and time, and subject to whatever terms and conditions are specified in the license or lease. 48 V. c. 9, s. 24.

Provisions as to setting apart waters for natural or artificial propagation of fish.

24. The Commissioner may authorize to be set apart, and to be leased, any waters for the natural or artificial propagation of fish, and any person who wilfully destroys or injures any place so set apart or used for the propagation of fish, or fishes therein without written permission from a Fishery Overseer, or from the lessee or licensee thereof, or uses therein a fishing light or other like implement for fishing, during the period for which the waters are so set apart, shall for every offence incur and pay a fine not exceeding \$100, with costs of prosecution, and in default of immediate payment of such fine and costs, shall be imprisoned in the common gaol of the county wherein the offence was committed, for a period not exceeding three months. 48 V. c. 9, s. 25.

Commissioners may grant permission to obtain fish, etc., for certain purposes.

25. Nothing contained in this Act shall preclude the granting by the Commissioner of written permission to obtain fish and fish spawn, for purposes of stocking or artificial breeding, or for scientific purposes, subject always to any regulation or restriction made or prescribed by or under any lawful authority in that behalf. 48 V. c. 9, s. 26.

Penalty for fishing within limits of fishing lease without permission of lessee.

26. If any person without permission of the lessee or his representative, fishes, or employs or induces another person to engage or assist in fishing within the limits included in a fishery lease, or removes or carries away, or employs or induces

or assists another person to remove or carry away any fish caught within such limits, he shall not acquire any right to the fish so caught, but the same shall be forfeited and become the absolute property of the lessee, and such person shall therefor, and upon conviction thereof incur and pay a penalty of not less than \$5 or more than \$20 with costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county within which the offence was committed for a period not exceeding one month; and the lessee or any person by him authorized, and any Fishery Overseer, may upon his own view forthwith seize and remove any net, article or apparatus so used in fishing or to assist in fishing contrary to the provisions of this section, to be afterwards dealt with according to law; provided always, that the occupation of any fishing grounds or waters leased for the express purpose of net fishing, shall not interfere with nor prevent angling for other purposes than those of trade or commerce. 48 V. c. 9, s. 27.

Proviso.

27. If any of the provisions of this Act or of any regulations made under the authority thereof by the Lieutenant-Governor in Council, are contravened and no other penalty is herein provided for such contravention, the person guilty of such contravention shall on conviction thereof incur and pay a fine of not more than \$20 with costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common gaol of the county within which the offence was committed, for a period not exceeding one month. 48 V. c. 9, s. 28.

Penalty for contravention of Act where no special penalty.

28. Contravention on any day of any of the provisions of this Act, or of any regulation made under the authority thereof by the Lieutenant-Governor in Council, shall constitute a separate offence, and may be punished accordingly. 48 V. c. 9, s. 29.

Separate offences.

29. The following provisions shall have effect with respect to summary proceedings for offences, fines and penalties under this Act;

Provisions with respect to summary proceedings.

1. The information shall be laid within two months after the commission of the offence;

2. The description of an offence in the words either of this Act or of any regulations made by authority thereof, or in any similar words, shall be sufficient in law;

3. Any exception, exemption, proviso, excuse or qualification, whether it does or not accompany the description of the offence in this Act, or in any regulation made by authority thereof, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and if so specified

or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or complainant ;

4. A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction, against which a person is authorized by this Act to appeal, shall not be removed by *certiorari* or otherwise, either at the instance of the Crown or of any private person, into the High Court, except for the purpose of the hearing and determination of a special case ;

5. Whenever it shall appear to the satisfaction of the convicting magistrate that an offence against this Act or any regulation made thereunder has been committed in ignorance of the law, and that because of the poverty of the offender, the fine or penalty imposed would be oppressive, a discretionary power may be exercised ;

6. Any Fishery Overseer or magistrate may upon his own view convict for any offence against the provisions of this Act, or of any regulation made thereunder, and shall instantly remove or cause to be removed and detain all materials and articles illegally in use ;

7. Where any offence under this Act is committed in, upon, or near any waters forming the boundary between different counties or districts, such offence may be prosecuted before any magistrate or Fishery Overseer, for either of such contiguous counties or districts. 48 V. c. 9, s. 30.

Application
of fines and
penalties.

30.—(1) One-half of every fine or penalty imposed by virtue of this Act shall belong to Her Majesty for the uses of the Province, and the remaining half shall be paid to the prosecutor, together with any costs which he may have incurred ; every fine, penalty or forfeiture imposed by this Act, or by the regulations made thereunder, may be recovered on parcel complaint before any Fishery Overseer or before any one of Her Majesty's Justices of the Peace in and for the county where the fine or penalty was incurred or the offence was committed or wrong done, and in cities, towns and villages in which there is a Police Magistrate, before such Police Magistrate, on the oath of one credible witness.

(2) All materials, implements or appliances used, and all fish had in contravention of this Act, or any regulation made thereunder, shall be confiscated to Her Majesty for the uses of the Province, and may be seized and confiscated on view by any Fishery Overseer, or taken and removed by any person for delivery to any magistrate or Fishery Overseer, and the proceeds of disposal thereof may be applied towards defraying expenses incurred under the provisions of this Act ; but nothing in this sub-section contained shall apply to any forfeiture of fish under the provisions of section 26 of this Act.

(3) The moiety of every fine or penalty belonging to Her Majesty for the uses of the Province, and all proceeds derived from the sale of articles confiscated to Her Majesty under this Act, shall be paid over to the Treasurer of the Province through the Department of Crown Lands, and shall be applied towards the expenses incurred in carrying out the provisions of this Act.

(4) Persons aggrieved by such conviction or confiscation may appeal by petition to the Commissioner, who shall have power to remit fines and restore forfeitures under this Act. 48 V. c. 9, s. 31.

31. Save where otherwise provided by this Act, all the provisions of the Act intituled *An Act respecting summary convictions before Justices of the Peace, and appeals to General Sessions*, shall apply to all prosecutions and proceedings under this Act, except in proceedings on appeal, and the practice and procedure upon and with respect to appeals and all proceedings thereon and thereafter, shall be governed by *The Act respecting the Procedure on Appeals to the Judge of a County Court from Summary Convictions*, so far as the same is not inconsistent with this Act. 48 V. c. 9, s. 32.

Certain Acts to apply to prosecutions under this Act.

32. Such annual or other reports of the Fishery Overseers as the Lieutenant-Governor from time to time directs, shall be laid before the Legislative Assembly. 48 V. c. 9, s. 33.

Reports to be laid before Legislative Assembly.

3. PUBLIC WORKS.

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34.—RIOTS NEAR PUBLIC WORKS, p. 362.

35.—SALE OF INTOXICATING LIQUORS NEAR PUBLIC WORKS, p. 366.

CHAPTER 33.

An Act respecting the Public Works of Ontario.

INTERPRETATION, s. 1.

DEPARTMENT OF PUBLIC WORKS, s. 2.

OFFICERS AND THEIR DUTIES, ss. 3-10.

CONTRACTS, HOW MADE AND ENFORCED, ss. 11, 12.

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POWER TO ALTER LINE OF PUBLIC ROADS, s. 49.

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OFFICIAL ARBITRATORS, ss. 58-61.

CASES IN WHICH ARBITRATION MAY BE HAD, ss. 62-65.

POWERS OF ARBITRATORS AND PROCEDURE ON ARBITRATIONS, ss. 66-72.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Interpreta-
tion.

1. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

“Convey-
ance”

1. “Conveyance” shall include a surrender to the Crown; and any conveyance to the Crown or to the Commissioner of Public Works, or any officer of that Department, in trust for or to the use of the Crown, shall be held to be a surrender;

“Land” and
“Property.”

2. “Land” and “Property” shall include real rights, easements, servitudes and all other things for which compensation is to be paid by the Crown under this Act. R. S. O. 1877, c. 30, s. 1.

Department
and Commis-
sioner of
Public Works.

2. There shall continue to be a Department of Public Works for Ontario, over which the Commissioner of Public Works for the time being, appointed by commission under the Great Seal, shall preside. R. S. O. 1877, c. 30, s. 2.

3. The Lieutenant-Governor may also appoint an Architect, Officers. an Engineer, a Secretary, a Law Clerk, an Accountant, and such other officers as may be necessary for the proper conduct of the business of the Department. R. S. O. 1877, c. 30, s. 3.

4. The Lieutenant-Governor may also appoint, from time to time, as many architects, engineers, surveyors, clerks of works, Temporary appointment of officers and servants. superintendents, lockmasters, bridge-tenders, servants, and other officers as he may deem necessary for the construction, maintenance, use and repair of Public Works, and the property, real or personal, connected therewith or belonging thereto. R. S. O. 1877, c. 30, s. 4.

5. The Commissioner shall have the management of the Department, and it shall be his duty to oversee and direct the other officers and servants of the Department; and he shall have such other powers and duties as may be assigned to him by the Lieutenant-Governor in Council, and may suspend from duty any officer or servant of the Department who refuses or neglects to obey his instructions as Commissioner. Duties and powers of the Commissioner. R. S. O. 1877, c. 30, s. 5.

6. It shall be the duty of the Architect to prepare plans, Duties of Architect. drawings, specifications and estimates, for all public buildings and the works connected therewith, and the grounds thereto belonging, which are about to be constructed, altered, repaired or laid out by the Department; and, in respect thereof, to report for the information of the Commissioner on any question which may be submitted to him; to examine and revise the plans, drawings, specifications, estimates and recommendations of other architects and officers; to prepare all certificates, and to check and verify all accounts; to conduct all architectural correspondence; to transmit to the Secretary all outward correspondence to be copied in the Public Works' Letter Book, and all documents that require to be filed or registered; to make an annual report to the Commissioner; and generally to advise the Department on all architectural questions submitted to him by the Commissioner. R. S. O. 1877, c. 30, s. 6.

7. It shall be the duty of the Engineer to prepare maps, Duties of Engineer. plans, drawings, specifications and estimates of all Public Works and lands thereto belonging, which are about to be constructed, altered, repaired, laid out or surveyed by the Department, except those which are by the preceding section, as above mentioned, placed under the direction of the Architect; and in respect of such Public Works and lands, to report for the information of the Commissioner on any question which may be submitted to him; to examine and revise the maps, plans, drawings, specifications, estimates and recommendations of other engineers, surveyors and officers; to prepare all certificates and to check and verify all accounts; to conduct all engineering correspondence; to transmit to the Secretary all outward correspondence to be copied in the Public Works'

Letter Book, and all documents that require to be filed or registered: to make an annual report to the Commissioner; and generally to advise the department on all engineering questions submitted to him by the Commissioner. R.S.O. 1877, c. 30, s. 7.

Duties of
Secretary.

8. It shall be the duty of the Secretary to conduct all general correspondence connected with the Department, under the instructions of the Commissioner; to see that all accounts are prepared in duplicate, and that one copy of each, properly certified and approved is sent to the Provincial Treasurer for submission to the Executive Council; to file all accounts and documents; to keep the ordinary indexes and also one "Subject Matter Index of the Letter Books and Register;" to sign requisitions for office supplies and contingencies; to prepare the Departmental pay list, to have charge of the Departmental seal, and generally to do and perform all such acts and things pertaining to the business of the Department as he may from time to time be directed to do and perform by the Commissioner; and a copy of any map, plan or document in the Department certified by him to be a true copy, and sealed with the seal of the Department, shall be held to be authentic, and shall be *prima facie* evidence of the same legal effect as the original in any Court or elsewhere. R. S. O. 1877, c. 30, s. 8.

Duties of Law
Clerk.

9. It shall be the duty of the Law Clerk to prepare all contracts, bonds, deeds and documents of a legal nature relating to Public Works, and to see that the same are properly executed; to examine the papers relating to, and to report to the Commissioner upon all applications for the sale of drainage debentures; to conduct legal correspondence; and generally to advise the Department on all legal questions relating to Public Works and the property connected therewith, which may be submitted to him by the Commissioner. R. S. O. 1877, c. 30, s. 9.

Duties of
Accountant.

10. It shall be the duty of the Accountant to check all accounts relating to Public Works, and to mark thereon the appropriations to which the same are properly chargeable, and to keep all necessary books and accounts relating to appropriations for Public Works, and the expenditure in respect thereof. R. S. O. 1877, c. 30, s. 10.

What acts
only shall bind
the Depart-
ment.

11. The Commissioner shall have power to enter into any contract with any person that may be necessary or advisable in carrying out the provisions of this Act, or any of them; but no deeds, contracts, documents or writings shall be deemed to be binding on the Department, or shall be held to be the acts of the Commissioner, unless signed and sealed with the seal of the Department by him. R. S. O. 1877, c. 30, s. 11.

Actions for
enforcing con-
tracts, etc.

12. All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or

breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of Her Majesty's Attorney-General for the Province. R. S. O. 1877, c. 30, s. 12.

13. The Lieutenant-Governor may require any person or any Provincial officer, having the possession of maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, not being private property, and relating to any Public Work, to deliver the same without delay to the Secretary of the Department. R. S. O. 1877, c. 30, s. 13.

Possession may be required of maps, etc., relating to Public Works.

14. All land, streams, water-courses and property, real or personal, heretofore or hereafter acquired for the use of Public Works; all canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water; all slides, dams, piers, booms and other works for facilitating the transmission of timber; all hydraulic powers created by the construction of any Public Works; all roads and bridges; all public buildings; all railways and rolling stock thereon; all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation; all drains and drainage works, and all property heretofore or hereafter acquired, constructed, repaired, maintained or improved at the expense of the Province, and not under the control of the Dominion Government, shall be and remain vested in Her Majesty and under the control of the Department. R. S. O. 1877, c. 30, s. 14.

What property, etc., to be under control of Department.

15. The Lieutenant-Governor may from time to time, by proclamation, declare any other property, real or personal, and any works, roads, bridges, harbours, slides or buildings, or other things specified in the next preceding section, and purchased or constructed at the public expense, to be Public Works, subject to the provisions of this Act, and they shall thenceforth be vested in Her Majesty and under the control of the Department. R. S. O. 1877, c. 30, s. 15.

Other property, etc., may be so placed by proclamation.

16.—(1) Any property, real or personal, when no longer required for the use of any Public Work, may be sold, leased or disposed of under the authority of the Lieutenant-Governor.

Property not required may be sold.

(2) Such property shall be so sold, leased or disposed of by tender or public auction, except leases for a term not exceeding five years, which leases may be made without tender or public auction; and the proceeds of all sales, leases and dispositions shall be accounted for as public money. R. S. O. 1877, c. 30, s. 16.

17. Contracts respecting any Public Work or property, real or personal, under the control of the Department, heretofore or hereafter entered into by the Commissioner, or by any

Contracts to enure to use of Her Majesty.

other person duly authorized to enter into the same, shall enure to the use of Her Majesty, and may be enforced as if they had been entered into with her Majesty under the authority of this Act. R. S. O. 1877, c. 30, s. 17.

Public Works to be under control of Department.

18. Public Works hereafter constructed or completed at the expense of the Province shall, unless otherwise provided by law, be under the control of the Department and subject to the provisions of this Act. R. S. O. 1877, c. 30, s. 18.

Commissioner to have direction of Public Works.

19. The Commissioner shall direct the construction, maintenance and repair of all Public Works in progress, or constructed or maintained at the expense of the Province, and which are by this Act, or may be hereafter, placed under the control of the Department. R. S. O. 1877, c. 30, s. 19.

Attesting accounts.

20. The Commissioner may require any account sent in by any person employed by the Department to be attested on oath, which oath, as well as that to be taken by any witness, the Commissioner may administer. R. S. O. 1877, c. 30, s. 20.

Power to examine persons on oath.

21. The Commissioner may send for and examine on oath all such persons as he deems necessary touching any matter upon which his action is required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements; and such persons shall attend at the summons of the Commissioner after due notice, under the penalty of \$20 in each case. R. S. O. 1877, c. 30, s. 21.

Penalty.

Annual report of Commissioner.

22. The Commissioner shall make and submit to the Lieutenant-Governor an annual report on all the works under the control of the Department, to be laid before the Legislative Assembly within twenty-one days from the commencement of each Session, shewing the state of each work and the amounts received and expended in respect thereof, with such further information as may be requisite to enable the Assembly to judge of the working of the Department. R. S. O. 1877, c. 30, s. 22.

Tenders to be invited for works.

Exception.

23. It shall be the duty of the Commissioner to invite tenders by public advertisement for the construction and repair of all Public Works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it can be more expeditiously and economically executed by the officers and servants of the Department. R. S. O. 1877, c. 30, s. 23.

Security to be taken from contractors.

24. The Commissioner, where a Public Work is being carried out by contract, and in all other cases, shall take all reasonable care that security be given to and in the name of Her

Majesty for the due performance of the work within the amount and time specified for its completion ; and in all cases where it seems to the Commissioner not to be expedient to let the work to the lowest bidder, it shall be his duty to report the same and obtain the authority of the Lieutenant-Governor before passing by such lowest tender ; but no sum of money shall be paid to the contractor, nor shall any work be commenced on any contract until the contract has been signed by all the parties therein named, nor until the requisite security has been given. R. S. O. 1877, c. 30, s. 24.

Provision when lowest tender is not accepted.

POWER TO TAKE LANDS, ETC.

25. The Commissioner may authorize any engineer, agent, servant or workman employed by or under him to enter into and upon any land, to whomsoever belonging, and to survey and take levels of the same, and to make such borings or sink such trial-pits as he deems necessary for any purpose relative to the works under the control of the Department. R. S. O. 1877, c. 30, s. 25.

Power to enter on lands, make survey etc.

26. The Commissioner may employ any engineer or person duly licensed or empowered to act as a surveyor for any Province in Canada, to make any survey or establish any boundary, and furnish the plans and description of any property acquired or to be acquired by Her Majesty for the use of the Province ; and such surveys, boundaries, plans and descriptions shall have the same effect as if the operations pertaining thereto or connected therewith had been performed by a land surveyor duly licensed and sworn in for the Province. R. S. O. 1877, c. 30, s. 26.

Certain persons employed by the Department as surveyors to have same powers as licensed surveyors.

27. The boundaries of such property may be permanently established by means of proper stone or iron monuments planted by the engineer or surveyor so employed by the Commissioner, and shall be of the same effect to all intents and purposes as if such boundaries had been drawn and such monuments planted by a land surveyor duly licensed and sworn in for the Province, and shall be held to be the true and unalterable boundaries of such property : but the boundary lines shall be so established and the monuments of iron or stone be planted only after due notice thereof has been given in writing to the owners of the lands to be thereby affected, and a written description of such boundaries shall be approved and signed in the presence of two witnesses, by such engineer or surveyor on behalf of the Commissioner and by the other parties concerned, or, in case of the refusal of any party to approve or sign the same, the refusal shall be recorded in such written description : and the boundary marks or monuments shall be planted in the presence of at least one witness, who shall sign the said written description, which shall afterwards be deposited with the Secretary of the Department as part of the records of the office. R. S. O. 1877, c. 30, s. 27.

Establishment of boundaries to property acquired by Her Majesty.

Power to take materials from uncleared lands.

28. The Commissioner and his agents may enter upon any uncleared or wild land, and take therefrom all timber, stones, gravel, sand, clay, or other materials which he or they may find necessary for the construction, maintenance, and repair of Public Works, or property, real or personal, under the control of the Department; or may lay any materials upon any such land; and the Commissioner may construct, take and use all such temporary roads to and from such timber, stones, gravel, sand, clay, or other materials as may be required by him or his agents for the convenient passing to and from the works during their construction and repair; and may enter upon any land for the purpose of making proper drains to carry off the water from any Public Work, or for keeping such drains in repair. R. S. O. 1877, c. 30, s. 28.

Power to acquire lands, etc.

29. The Commissioner of Public Works may acquire and take possession, for and in the name of Her Majesty, of any land or real estate, streams, waters, water-courses, fences and walls, the appropriation of which is in his judgment necessary or expedient for the use, construction or maintenance of any Public Work or building; or for the purpose of draining any public building, or for the sewage service thereof; or for the use, construction or maintenance of hydraulic privileges made or created by, from or at any Public Work; or for the purpose of draining; or for the enlargement or improvement of any Public Work, or for obtaining better access thereto; or for any other public purposes authorized by the Legislature or by the Lieutenant-Governor, and to whatever Department of the Government the purpose may happen to belong; and the Commissioner may, for such purpose, contract with all persons, guardians, tutors, curators and trustees, whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants, absentees, lunatics, married women, or other persons otherwise incapable of contracting, possessed of or interested in such lands, real property, streams, waters and water-courses; and all such contracts, and all conveyances or other instruments made in pursuance of any such contract, shall be valid to all intents and purposes whatever. R. S. O. 1877, c. 30, s. 29.

Parties enabled to contract.

Taking possession when parties under disability.

30. In case the owner of land or other property, the acquisition whereof is required as aforesaid, is under disability, and has no representative known to the Commissioner with whom a valid agreement can be made, the Commissioner may, without notice or tender of compensation, take possession of the said land, after such advertisement as is required where the owner does not reside on or near the property. R. S. O. 1877, c. 30, s. 30

Application for representation of person under disability.

31.—(1) In case the owner of the land or property to be taken is an infant, or other person under disability, and has no guardian or committee legally authorized to represent his interest in the

said land, the High Court or a Judge thereof, or the Judge of the County Court of the County in which the land lies, shall, upon the application by petition of the Commissioner, appoint some person to represent the interest of the infant or other person under disability, and shall determine the compensation to be paid by the Commissioner to the person so appointed for his services.

(2) Marriage shall not constitute a disability requiring an appointment to be made under this Act. R.S. O. 1877, c. 30, s. 31. Marriage not such a disability.

32. No such appointment shall be required where the person under disability is only a part owner, and another person not under any disability, who is also a part owner, has agreed to sell, or has been served in this Province with a proposal to purchase, or a tender of purchase money, and in no such case shall it be necessary that the interest of the infant be represented in any dispute which may arise as to the value of the property taken. R. S. O. 1877, c. 30, s. 32. Persons under disability only part owners,

33. The preceding section shall not apply where the infant or other person under disability holds an estate of a different nature from that of the person not under disability, but shall apply in all cases where they are part owners of the same estate although in different proportions. R. S. O. 1877, c. 30, s. 33. or holding estate of different nature from part owner.

34. The Judge of the County Court, or such person as the High Court may direct, shall have authority to execute a conveyance for and in the name of any infant or other person under disability, whether the case requires or does not require the appointment of some person to represent the interest of the infant or other person under disability, and such execution shall be expressed to be under the authority of this Act. R. S. O. 1877, c. 30, s. 34. Conveyance of lands of infants, etc

35. When any resistance or forcible opposition is offered or apprehended to possession being taken of any land, or to the exercise of any right authorized under this Act, the Judge of the County or District Court of the County or District in which the land to be taken, or in respect of which the right is to be exercised, lies, may issue his warrant to the Sheriff of the District or County, or to a bailiff, as he may deem most suitable, to put the Commissioner, his servants or agents, in possession, and to put down such resistance or opposition, which the Sheriff or bailiff, taking with him sufficient assistance, shall accordingly do. R. S. O. 1877, c. 30, s. 35. Resistance to taking possession of land.

36. The Commissioner may, if he thinks fit, in any case where any person is entitled to an arbitration under this Act, take such steps as may be necessary in order to have the amount of compensation determined by the Board of Official Arbitrators. R. S. O. 1877, c. 30, s. 36. Compensation may be determined by the Official Arbitrators.

Payments
under
this Act.

37. Where, under and by virtue of this Act, any payment is to be made by the Commissioner of Public Works, the same shall be payable out of such moneys as may be voted by the Legislature of this Province for that purpose, and not otherwise, and the Commissioner shall not be in anywise personally liable thereto, or for any proceedings had or taken by virtue of this Act. R. S. O. 1877, c. 30, s. 37.

Compensation
to stand in the
place of land
taken without
consent of
owner, as to
all charges
thereon.

38. The compensation money agreed upon, paid into Court as hereinafter provided, or awarded by the Official Arbitrators, for lands or property acquired or taken by the Commissioner, and which may under this Act be taken by the Commissioner without the consent of the proprietor, shall stand in the stead of such lands or property; and any claim to or incumbrance upon such lands or property shall, as respects the Crown, be converted into a claim to the compensation money or to a proportionate amount thereof, and shall be void as respects the lands or property themselves, which shall, by the fact of the taking possession thereof under this Act, notwithstanding any irregularity in the previous proceedings, become and be absolutely vested in the Crown, as shall also any lands or property taken possession of by the Crown under this Act, whether there be or be not any conveyance, agreement or award respecting the same,—subject always to the determination of the compensation to be paid, and to the payment thereof when such conveyance, agreement or award has been made. R. S. O. 1877, c. 30, s. 38.

All lands
vested in the
Crown.

Compensation
may be paid
into Court
where person
entitled is un-
known, etc.

39. If the party conveying such lands or property could not, without this Act, have conveyed the same or agreed for the compensation to be paid therefor, or if any owner or party to whom the compensation money or any part thereof is payable, refuses to execute the proper conveyance or other requisite instrument of transfer of the premises, or if the party entitled to claim the same cannot be found or is unknown to the Commissioner, or if the Commissioner has reason to fear any claim or incumbrance, or if for any other reason he deems it advisable, the Commissioner may pay such compensation money or award (or if there has been no compensation money agreed upon or amount awarded, then such sum of money as in the opinion of the Commissioner is sufficient compensation for such lands or property) into the High Court (with the interest thereon for six months), and may deliver to the Registrar or other proper officer of the Court a copy of the conveyance, or of the agreement or award, if there be no conveyance, certified by the Commissioner; and if there be neither conveyance nor award, may deliver to the said officer a notice specifying the lands or property so acquired or taken. R. S. O. 1877, c. 30, s. 39.

Notice to par-
ties interested
by advertise-
ment.

40. A notice, in such form and for such time as the Court may appoint, shall be inserted by the officer of the Court in

some newspaper, published in the District or County in which the lands are situate, if there be any, which notice shall state that the title of the Crown (that is, the conveyance, agreement or award, or if there be none such, then the notice of the Commissioner to the said officer of the Court as hereinbefore provided,) is under this Act, and the notice so to be inserted shall call upon all persons entitled to the lands or to any part thereof, or representing or being the husbands of any parties so entitled, or claiming to hold or represent incumbrances thereon or interests therein, to file their claims to the compensation or any part thereof. R. S. O. 1877, c. 30, s. 40.

41. All such claims shall be received and adjudged upon by the Court, and the said proceedings shall for ever bar all claims to the compensation or any part thereof, including any claim in respect of dower, as well as in respect of all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice and according to the provisions of this Act and to law may appertain. R. S. O. 1877, c. 30, s. 41,

Court to distribute the compensation money.

42. The costs of the proceedings or any part thereof shall be paid by the Commissioner or by any other party as the Court may order, and if the order of distribution is obtained in less than six months from the payment of the compensation into the Court, the Court shall direct a proportionate part of the interest to be returned to the Commissioner; and if from any error, fault or neglect of the Commissioner, it is not obtained until after the six months have expired, the Court shall order the Commissioner to pay into Court the interest for such further period as may be right. R. S. O. 1877, c. 30, s. 42.

As to costs of proceedings.

43. In any case where the price or compensation money agreed for or awarded does not exceed \$100, it may be paid to the party who, under this Act, can lawfully convey the lands or property, or agree for the compensation to be made in the case, with the same effect as if it had been paid into Court under this Act; saving always the rights of any other party to such compensation money as against the party receiving the same. R. S. O. 1877, c. 30, s. 43.

If compensation does not exceed \$100.

44. If a party entitled to compensation as aforesaid is dissatisfied with the amount so paid by the Commissioner into Court as aforesaid, the question of the amount of compensation may be referred to the Board of Arbitrators, and proceedings thereon shall be had according to this Act, and the Commissioner may pay the amount of any award thereon into Court as the case may be, and the Court shall make such order as to the same as if it had been paid in as compensation, as hereinbefore mentioned. R. S. O. 1877, c. 30, s. 44.

Arbitration if any party entitled is dissatisfied with amount paid into Court.

Payment of
compensation
therefor.

45. Compensation, to be agreed on between the parties or appraised and awarded in the manner hereinafter set forth, for land, real or personal property, streams, water and water-courses, timber, stone or other material, or for damage thereto, shall, except where the same is paid into Court under section 39 of this Act, be made to the owner or occupier of the land or property, or to the person suffering damage as aforesaid, and shall be paid within six months after the amount of the compensation has been agreed on, or appraised and awarded; and where the compensation is paid into Court under the said section, the same shall be so paid into Court within the said time. R. S. O. 1877, c. 30, s. 45.

Abandonment
of proposed
purchase.

46. In case the Commissioner of Public Works has not taken possession of the land or property in respect of which compensation is awarded, he may, within one month after the publication of the award, elect to abandon the proposed purchase, and in that event the Commissioner shall pay to the owner or occupier all costs and charges reasonably incurred by him in and about the arbitration or other proceedings. R. S. O. 1877, c. 30, s. 46.

Notice and
tender before
taking pos-
session.

47. Where the owner or occupier refuses or fails to agree to convey his estate or interest in any land, real property, stream or water-course as aforesaid, the Commissioner may tender the reasonable value in his estimation of the same, with notice that the question will be submitted to arbitration as hereinafter mentioned; and in every case the Commissioner may, three days after the agreement or tender and notice, authorize possession to be taken of the land, real property, stream or water course so agreed or tendered for. R. S. O. 1877, c. 30, s. 47.

Notice when
the owners do
not reside on
the land.

48. If the owner of the land, real property, stream or water-course, does not reside on or near the property so required, then one month's notice shall be given in the *Ontario Gazette*, and in two newspapers published in or near the District or County in which the property is situate, of the intention of the Commissioner to cause possession to be taken of the land or real property, stream or water-course; and, after ten days from the publication of the last notice, possession may be taken accordingly. R. S. O. 1877, c. 30, s. 48.

Power to alter
the line of any
public road.

49. The Commissioner may discontinue or alter any part of a public road, where it is found to interfere with the proper line or site of any Public Work; but before discontinuing or altering a public road he shall substitute another convenient road in lieu thereof; and the land theretofore used for any road or part of a road so discontinued, may, without the authority prescribed in section 16, be transferred by the Commissioner to, and shall thereafter become the property of, the owner of the land of which it originally formed part, or may

be dealt with as prescribed in section 16. R. S. O. 1877, c. 30 s. 49.

50. Where in the prosecution of a Public Work, it is found necessary to take down or remove a wall, fence or boundary mark of an owner or occupier of land adjoining the Public Work, or to construct back-ditches or drains for carrying off the water accumulating behind the banks of any public canal, the Commissioner shall cause to be replaced the wall, fence or boundary mark as soon as the necessity which caused its being taken down or removed has ceased; and after the same has been so replaced, or when the drain or back-ditch is completed, the owner or occupier of the land shall maintain the wall, fence or boundary mark, drains or back-ditches to the same extent as the owner or occupier might by law be required to do, if the wall or fence had never been so taken down or removed, or the drains or back-ditches had always existed. R. S. O. 1877, c. 30, s. 50.

Fences, etc., removed or ditches made during prosecution of public work to be replaced.

Obligation of land owners.

DRAINAGE OF LANDS.

51. The Commissioner shall have power to employ competent engineers and surveyors to make the necessary examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and such engineers and surveyors shall be under the direction of the Department, and shall report to the Commissioner on the best means of draining or preventing the flooding of the land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. R. S. O. 1877, c. 30, s. 51.

Power to employ engineers, etc., to examine land for drainage, etc.

52. The Commissioner shall submit to the Lieutenant-Governor, in the annual report to be laid before the Legislature, a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands, so as to render them available for cultivation, with his recommendation respecting the same. R. S. O. 1877, c. 30, s. 52.

Report thereon.

53. The Commissioner shall have power to make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works necessary or proper to prevent the flooding of, or to carry off the water from any land as aforesaid, and to render the same available for cultivation. R. S. O. 1877, c. 30, s. 53.

Power to make contracts.

54. Where it has been ascertained, on the report of a competent engineer, that there exists, or is being or has been constructed, across a river, stream or water-course, any mill-dam, embankment or obstruction which does, or which, in the opinion of the engineer, will impede the free discharge of water from such swamp, bog or flooded land as aforesaid, the Commis-

Power to remove obstructions on report of engineer.

Owners, etc.,
to receive
compensation.

sioner shall have power to stop the construction thereof, or to cause the same to be removed, or a slide constructed, as in his opinion may be most advisable; and if it be found that the owner of such mill-dam, embankment or obstruction, or any other person suffers any damage in consequence of the stoppage of its construction, or of its removal, or of the construction of any slide under the provisions of this section, the owner or person suffering such damage shall receive compensation (if on arbitration, as hereinafter provided, he be considered reasonably entitled to any) for such damage, to be agreed upon, or appraised and awarded in manner hereinafter provided, due regard being paid to the previous rightful or wrongful action of the owner in constructing the mill-dam or embankment; and the compensation shall be paid within six months after the same has been agreed on or awarded. R. S. O. 1877, c. 30, s. 54.

Slides to be
under control
of Depart-
ment, etc.

55. Where any slide as aforesaid has been constructed in any mill-dam or embankment, the slide shall be under the control of the Department; and the Commissioner, his engineers and agents, shall have free access to the same at all reasonable times, and for all reasonable purposes, including the regulating the discharge of water over, and the repairing of the same. R. S. O. 1877, c. 30, s. 55.

Power to ap-
point over-
seers of drain-
age works.

56. When the works for the drainage or saving from flooding of any land have been reported complete, the Commissioner shall, if necessary, appoint a competent overseer or overseers to take charge of the same, whose duty it shall be to report, from time to time and as occasion may require, on the condition of the same, and to state what repairs are required to keep them in good order. R. S. O. 1877, c. 30, s. 56.

Expenditure
to be sanc-
tioned by Le-
gislation.

57. Nothing herein contained shall give authority to the Commissioner to cause expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service may demand. R. S. O. 1877, c. 30, s. 57.

OFFICIAL ARBITRATORS.

Official Arbi-
trators,
how appointed
and for
what purpose,
etc.

58. The Lieutenant-Governor may, from time to time, constitute a Board of Arbitration, and appoint any number of persons, not exceeding three, who shall be official arbitrators for Ontario, and who shall arbitrate on, appraise, determine and award the sum which shall be paid to any person in respect of any claim made by such person under this Act, and with whom the Commissioner has not agreed and cannot agree; and every such Arbitrator shall receive such remuneration as may be from time to time fixed by the Lieutenant-Governor. R. S. O. 1877, c. 30, s. 58.

59. The Arbitrators shall take, before the Commissioner or Their oath of office.
 one of Her Majesty's Justices of the Peace for Ontario, the
 following oath:—

“I, A. B., do swear that I will well and truly hear, try and examine into such claims as may be submitted to me for compensation for real or personal property taken, or alleged direct or consequent damage to such property arising from the construction, or connected with the execution, of any Public Work undertaken at the expense of the Province of Ontario, or arising out of or connected with the execution of, or on account of deductions made for the non-execution or non-fulfilment of any contract for the execution of any such Public Work; that I will give a true judgment and just award thereon to the best of my knowledge and ability; and that I will take into due consideration the benefits derived and to be derived by the claimant through the construction of such Public Work, as well as the injury done thereby: So help me God.”

R. S. O. 1877, c. 30, s. 59.

60. The Lieutenant-Governor may appoint proper persons Clerks to arbitrators.
 to act as clerks to the Arbitrators, and may fix the amount
 of remuneration to be allowed to such clerks. R. S. O. 1877,
 c. 30, s. 60.

61. Whenever an Arbitrator has concluded an arbitration Arbitrators to transmit award, etc., to Secretary.
 by the publication of his award thereon, he shall forthwith
 cause to be transmitted to the Secretary of the Depart-
 ment the award, together with all depositions, documents,
 maps, plans, books, accounts, contracts and writings, not being
 private property, taken by or submitted to such Arbitrator in
 the course of the arbitration; and the Secretary shall file the
 same as public records of the Department. R. S. O. 1877, c.
 30, s. 61.

WHAT CASES MAY BE REFERRED TO ARBITRATION.

62. If any person has a claim for real or personal property How and in what cases claims are to be made.
 taken, or for alleged direct or consequent damage to such pro-
 perty, arising from the construction or connected with the exe-
 cution of a Public Work undertaken at the expense of the
 Province, or a claim arising out of, or connected with, the
 execution or fulfilment, or on account of deductions made for
 the non-execution or non-fulfilment, of a contract for the
 execution of any Public Work made and entered into with
 the Commissioner, either in the name of Her Majesty, or in any
 other manner whatsoever, such person may give notice in writ-
 ing of his claim to the Commissioner, stating the particulars
 thereof, and how the same has arisen; and thereupon the Com-
 missioner may, at any time within thirty days after the notice,
 tender what he considers a just satisfaction for the same, with
 notice that unless the sum so tendered is accepted in ten days
 after the tender, the claim will be submitted to arbitration.
 R. S. O. 1877, c. 30, s. 62.

63. Before a claim under this Act is arbitrated upon, Security for costs by claimant.
 the claimant shall give security to the satisfaction of the

Arbitrators, or one of them, for the payment of the costs and expenses incurred by the arbitration, in the event of the claimant being awarded to pay the costs. R. S. O. 1877, c. 30, s. 63.

When no arbitration allowed.

64. No person shall be entitled to an arbitration, where by the terms of the contract it is provided that the determination of any matters of difference arising out of or connected with the same shall be decided by the Commissioner, Architect or Engineer, or other officer of the Department. R. S. O. 1877, c. 30, s. 64.

Limitation of time within which claims must be made.

65. No claim of any kind for compensation in respect of a contract made, or for loss or damage occasioned by anything done under this Act, by or under the authority of the Department or the Commissioner, shall be submitted to or entertained by an Arbitrator, unless the claim and the particulars thereof have been filed with the Secretary of the Department within six months next after the loss or injury complained of, or after the date of the final estimate made under such contract. R. S. O. 1877, c. 30, s. 65.

POWERS OF ARBITRATORS AND PROCEEDINGS BY OR BEFORE THEM.

Power to summon witnesses, etc.

66. The Arbitrators may, by summons or order in writing, signed by any one of them, to be served upon, or left at the last usual place of residence of the person to whom it is addressed, command the attendance, from any part of the Province, of any witness, or the production of any documents required by any of the parties, and may swear the witness to testify truly respecting the matters on which he is to be interrogated; and the disobedience to the summons or order shall subject the person disobeying to a penalty of not less than \$5, nor more than \$25, to be recovered before a Justice of the Peace, and levied under the warrant of the Justice, by distress and sale of the goods and chattels of the offender, unless such person establishes reasonable cause for his disobedience. R. S. O. 1877, c. 30, s. 66.

What evidence, etc., disallowed.

67. No person shall be compelled to give evidence, or to produce any document, which he would not be compelled to give or produce at a trial in the High Court, or to attend as a witness more than three consecutive days; and every witness shall be allowed, in addition to his reasonable travelling expenses, a sum not exceeding \$1 per day, at the discretion of the Arbitrators, the remuneration to be paid by the party requiring his attendance. R. S. O. 1877, c. 30, s. 67.

Arbitrators to consider advantages of work to claimant.

68. The Arbitrators shall consider the advantage as well as the disadvantage of any Public Work, as respects the real or personal property of the person through which the same passes, or to

which it is contiguous, or as regards a claim for compensation for damage caused thereby; and the Arbitrators shall, in estimating and awarding the value of any property, real or personal, taken for a Public Work, or the amount of damages to be paid to any person, take into consideration the advantages accrued, or likely to accrue, to the person or his estate, as well as the damage occasioned by reason of the work. R. S. O. 1877, c. 30, s. 68.

69. The Arbitrators, in estimating and awarding the amount to be paid to a claimant for property, real or personal, taken by the Commissioner under this Act, or for injury in respect thereof, shall assess the value thereof as if made at the time when the property was so taken or injured, and not as at the time of making their award. R. S. O. 1877, c. 30, s. 69.

How amount estimated, etc.

70. In awarding upon a claim arising out of a contract in writing, the Arbitrators shall decide in accordance with the stipulations in the contract, and shall not award compensation to a claimant on the ground that he expended a larger sum of money in performance of his contract than the amount stipulated therein; nor shall they award interest on any sum of money which they consider to be due to the claimant, in the absence of a contract in writing stipulating payment of interest; and any clause in such contract in which a drawback or penalty is stipulated for the non-performance of any condition thereof, or neglect to complete any Public Work, or to fulfil any covenant or promise in such contract, shall not be construed as comminatory, but as importing an assessment, by mutual consent of the damages caused by such non-performance or neglect. R. S. O. 1877, c. 30, s. 70.

How award to be made where contract in writing, and penalties in such contracts construed.

71. In the investigation of a claim, the Arbitrators shall cause all legal evidence offered on either side to be taken down and recorded in writing, and shall make and keep a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during the investigation; but they may, with the consent in writing of the Commissioner and of the opposite party, take the testimony of the witnesses adduced on either side, orally, and in such case need not reduce it to writing. R. S. O. 1877, c. 30, s. 71.

Mode of taking evidence. Exception.

72. If the sum awarded in any case is greater than the sum tendered, the Commissioner shall pay the costs of the arbitration; but if less, the costs shall be paid by the person who refused the tender; and the costs shall in other cases, where the award is in favour of the claimant, be paid by the Commissioner, in addition to the sum awarded; and where the award is in favour of the Commissioner, shall be paid by the claimant, and shall in all cases be taxed by the proper officer of the High Court. R. S. O. 1877, c. 30, s. 72.

Costs of arbitration.

CHAPTER 34.

An Act respecting Riots near Public Works.

INTERPRETATION, s. 1.	MONTHLY RETURNS OF WEAPONS DE-
LIEUT.-GOVERNOR MAY DECLARE ACT	LIVERED UP, s. 9.
TO BE IN FORCE, s. 2.	SALE OF FORFEITED WEAPONS, s. 10.
DELIVERY UP OF WEAPONS WHERE	RECOVERY OF PENALTIES, s. 11.
THE ACT IS IN FORCE, ss. 3-6.	MOUNTED POLICE FORCE TO CARRY
PENALTY FOR NON-DELIVERY, s. 7.	ACT INTO EFFECT, ss. 12-14.
SEARCH FOR AND SEIZURE OF WEAP-	EXPENSES OF CARRYING ACT INTO
ONS, s. 8.	EXECUTION, HOW DEFRAYED, ss.
	15, 16.

Preamble.

FOR the preservation of the peace and for the protection of the lives, persons and property of Her Majesty's subjects, in the neighbourhood of Public Works on which large bodies of labourers are congregated and employed: Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation
of term
"weapon."

1. In this Act, the term "weapon" shall include every species of weapon, arms or ammunition enumerated in section 3 of this Act. R. S. O. 1877, c. 31, s. 1.

Lieut.-Governor in Council may by proclamation declare this Act to be in force in any locality in which Public Works are being carried on.

2.—(1) The Lieutenant-Governor in Council may, as often as occasion requires, declare by proclamation the several places in this Province within the limits whereof a canal or other Public Dominion or Provincial work, or a canal, railway or other work undertaken or carried on by an incorporated Company is in process of construction, or such places as are in the vicinity of such canal, railway or other work as aforesaid, within which he deems it necessary that this Act should be in force—and this Act shall, upon and after the day to be named in the proclamation, take effect within the places designated in the proclamation.

And may, in like manner, declare this Act to be no longer in force.

(2) The Lieutenant-Governor in Council may, in like manner, from time to time, declare this Act to be no longer in force in such place: but this shall not prevent the Lieutenant-Governor in Council from again declaring the same to be in force in such place.

Provided that to apply to cities.

(3) No such proclamation shall have effect within the limits of a city. R. S. O. 1877, c. 31, s. 2.

3. Upon and after the day to be fixed in the proclamation, Possession of weapons prohibited. no person employed in or upon a canal, railway or other work as aforesaid, within the limits specified in the proclamation, shall keep or have in his possession or under his care or control, within such limits, any gun, blunderbuss, pistol or other fire-arm, or any stock, lock, barrel or any other part of a gun, blunderbuss, pistol or other fire-arm, or any bullets, sword, sword-blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger or other instrument intended for cutting or stabbing, or other arms, ammunition or weapon of war, under a penalty of not less than \$2 nor more than \$4 for every such weapon found in his possession. R. S. O. 1877, c. 31, s. 3.

4. Within the time appointed as aforesaid in the proclamation, every person employed in or upon the canal, railway or other work to which the same relates, shall bring and deliver Weapons to be delivered to Justice. up to some Justice of the Peace or Commissioner to be appointed by the Lieutenant-Governor for the purposes of this Act every such weapon in his possession, and shall obtain from the Justice of the Peace or Commissioner a receipt for the same. R. S. O. 1877, c. 31, s. 4.

5. When this Act ceases to be in force within the place Weapons to be returned. where any weapon has been delivered and detained in pursuance thereof, or when the owner or person lawfully entitled to such weapon satisfies the Justice or Commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the Justice or Commissioner may deliver up to the owner or person authorized to receive the same, such weapon, on production of the receipt so given for it. R. S. O. 1877, c. 31, s. 5.

6. Every such weapon found in the possession of a person Weapons unlawfully kept may be seized and shall be forfeited. employed as aforesaid after the day named in the proclamation as that on or before which such weapon ought to be delivered up, and within the limits or locality set forth in the proclamation bringing this Act into force, shall be liable to be seized; and being seized by any Justice, Commissioner, Constable or other peace officer, shall be forfeited to the use of Her Majesty. R. S. O. 1877, c. 31, s. 6.

7. If a person, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this Act is at the time in force, any weapon as aforesaid belonging to or in the custody of a person employed on such canal, railway or other work, he shall forfeit a sum of not less than \$40 nor more than \$100; one half to belong to the informer and the other half to her Majesty. Penalty for keeping arms contrary to this Act in the limits in which Act is in force. R. S. O. 1877, c. 31, s. 7.

Search for and seizure of unlicensed arms.

8.—(1) A Justice of the Peace or Commissioner appointed under this Act, having authority within the place where this Act is at the time in force, upon the oath of a credible witness that he believes that any weapon as aforesaid is in the possession of any person, contrary to the provisions of this Act, or in any house or place, may issue his warrant to a constable or peace officer, to search for and seize the same, and he or any person in his aid may search for and seize the same in the possession of any person, or in such house or place.

Forcible entry in case admission refused to the officer.

(2) In case admission to such house or place cannot be obtained after demand, the constable or peace officer, and person in his aid, may enter the same by force, by day or by night, and seize such weapon; and unless the party within whose possession or in whose house or place the same has been found, within four days next after the seizure, proves to the satisfaction of the Justice or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty. R. S. O. 1877, c. 31, s. 8.

Weapons, etc., seized to be forfeited unless proved to have been lawfully kept.

Commissioners, etc., to make monthly returns.

9. Every Justice or Commissioner shall make a monthly return to the Secretary of the Province of all weapons delivered to him, and by him detained under this Act. R. S. O. 1877, c. 31, s. 9.

Weapons forfeited to be sold.

10. Weapons declared forfeited under this Act shall be sold under the direction of the Justice or Commissioner by whom or by whose authority the same were seized, and the proceeds of the sale, after deducting necessary expenses, shall be received by the Justice or Commissioner and paid over by him to the Provincial Treasurer for the use of the Province. R. S. O. 1877, c. 31, s. 10.

Proceeds how applied.

Before whom penalties imposed by this Act may be recovered, and on what evidence.

11. All penalties imposed by this Act may be recovered before any two Justices of the Peace acting for the District or County within which the fact in respect of which such penalty is sought to be recovered, happened or was committed;—and such Justices shall, on complaint on oath of such offence, issue their warrant for bringing the offender before them, and shall, on the offender being brought before them, hear the complaint and adjudge upon the same; and if the offender is convicted on the oath of one witness other than the informer, or by his own confession, the Justices shall impose such penalty. R. S. O. 1877, c. 31, s. 11.

[As to protection of persons acting under this Act see “The Act to Protect Justices of the Peace and Others from Vexatious Actions.”]

MOUNTED POLICE FORCE.

12. For the better carrying this Act into effect, the Lieutenant-Governor in Council may cause a body of men not exceeding one hundred, inclusive of officers, and to be called "The Mounted Police Force," to be raised, mounted, armed and equipped, and to be placed under the command of such officers as the Lieutenant-Governor in Council deems necessary, and may cause such Police Force, or any portion thereof, to be employed in any place in which this Act is then in force, under such Orders and Regulations as the Lieutenant-Governor in Council shall from time to time issue. R. S. O. 1877, c. 31, s. 13.

A Mounted Police Force may be raised and employed for better carrying this Act into effect.

13. The Lieutenant-Governor may appoint the chief officers and such of the subordinate officers of the Mounted Police Force, and such other persons as he deems necessary, to be respectively Justices of the Peace for the purposes of this Act within any of the places in which this Act is in force; and such officers and persons respectively may act as Justices of the Peace, although they may not have the qualification in property required of others. R. S. O. 1877, c. 31, s. 14.

Officers of Police Force and others may be appointed Justices of the Peace for certain localities without a property qualification.

14. The men in the Mounted Police Force are hereby constituted respectively constables and peace officers for the purposes of this Act, for the District or County in which they are employed for the time being. R. S. O. 1877, c. 31, s. 15.

Mounted Policemen to be Constables and Peace Officers.

EXPENSES.

15. The expenses of carrying this Act into effect upon or near Provincial Public Works shall be paid through the Commissioner of Public Works out of the moneys appropriated for the work on which expenses are incurred, and shall be charged as part of the cost of the work; and the sum to be so charged against each work shall be proportionate to the number of policemen employed on the work and the time during which they are so employed; but the sum so expended in any one year shall not exceed \$40,000. R. S. O. 1877, c. 31, s. 16.

Expenses of carrying this Act into effect how defrayed, in the case of Provincial Works.

16. The expenses attending the employment of such police force in any place in or in the vicinity whereof a railway, canal or work, undertaken and carried on by an incorporated Company as aforesaid, is in progress of construction, shall be, in the first instance, paid by the Lieutenant-Governor out of the Consolidated Revenue Fund, and shall, on demand, be repaid to the Provincial Treasurer by the incorporated Company, or, if not so repaid, may be recovered from the Company as a debt due to the Crown; and when recovered, shall form part of the Consolidated Revenue Fund. R. S. O. 1877, c. 31, s. 17.

How the expenses defrayed in case of works carried on by companies.

CHAPTER 35.

An Act respecting the Sale of Intoxicating Liquors near Public Works.

SALE OF INTOXICATING LIQUORS PROHIBITED, s. 1.	PROCEEDINGS AGAINST KEEPERS OF LIQUOR, ss. 7, 8.
PENALTIES, s. 2.	PAYMENT FOR LIQUORS ILLEGALLY SOLD TO BE VOID, s. 9.
AGENTS PUNISHABLE AS PRINCIPALS, s. 3.	COMPELLING ATTENDANCE OF WITNESSES, s. 10.
PERSONS WHO MAY HEAR CASES UNDER THIS ACT, s. 4.	PROVISION FOR PROTECTION OF JUSTICES, s. 11.
APPEALS, s. 5.	COSTS, ss. 12, 13.
SEARCH FOR LIQUORS AND SEIZURE AUTHORIZED, s. 6.	PROCEEDINGS NOT TO BE VOID FOR DEFECT OF FORM, s. 14.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Intoxicating liquors not to be sold within a certain distance of any public work in progress of construction.

1.—(1) No person shall barter, sell, exchange or dispose of directly or indirectly, to any other person, alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or mixed liquor a part of which is spirituous, or vinous, fermented or otherwise intoxicating; (and every such liquor or mixed liquor shall be included in the expression “intoxicating liquor,” when used in this Act); nor shall expose, keep or have in his possession, for sale, barter or exchange, intoxicating liquor, at any place not included within the limits of a city, incorporated or other town or village, and being within three miles of the line of any railway, canal, or other Public Work in progress of construction, whether the work be constructed by the Government of Canada or of this Province, or by an incorporated Company, or by private enterprise; nor shall any person obtain or receive a license to sell intoxicating liquor at such place as aforesaid, and such license if granted shall be null.

No license to be granted in such place.

(2) If any doubt at any time arises as to whether a work then in progress does or does not come within the meaning of this section, the Lieutenant-Governor, if he sees fit, may declare by proclamation that such work is within the meaning of this section, and that the prohibition herein contained applies to any place within three miles of the line thereof, which line may be described and defined in the proclamation; and the declaration contained in the proclamation shall have the like force as if contained in this Act, and the prohibition shall apply accordingly.

Lieutenant-Governor may declare any work within the scope of this Act.

(3) Nothing in the declaration shall be construed as a declaration that the work or any part thereof was not within the meaning of this section before the issuing of the proclamation, but the question whether it was or was not so shall be decided as if the proclamation had not issued.

Effect of such declaration.

(4) This section shall not extend to any person selling intoxicating liquors by wholesale, and not retailing the same, if the person be a licensed distiller or brewer, nor shall it prevent the renewal of the license of houses or shops which had been usually licensed before the construction of the Public Work was commenced. R. S. O. 1877, c. 32, s. 1.

Application of section limited.

2.—(1) A person who, in contravention of this Act, by himself, his clerk, servant or agent, exposes or keeps for sale, or barter, sells, disposes of, gives or exchanges for any other matter or thing, to another person, intoxicating liquor, shall be liable to a fine of \$20 on the first conviction, \$40 on the second, and on the third and every subsequent conviction to such last mentioned fine and imprisonment for a period not more than six months.

Penalty for contravention of this Act.

(2) The fine shall be paid over to the treasurer or clerk of the municipality in which the offence is proved to have been committed, for the use of the municipality, and shall be applied to such public purposes as the council thereof may direct.

How applied.

(3) In default of payment of any fine and costs imposed under this Act, with the costs of prosecution, at the time of conviction, the offender shall be imprisoned until the same is paid, under warrant of the Justice, Reeve, Mayor, Police Magistrate or Judge before whom the conviction is had; but no person shall be imprisoned for any separate offence under this Act for fine or costs, or for both fine and costs, for a period exceeding six months. R. S. O. 1877, c. 32, s. 2.

Imprisonment in default of payment.

3. If any clerk, servant or agent, or other person in the employment or on the premises of another, sells, disposes of or exchanges for any other matter or thing, or assists in selling, disposing of, or exchanging for any other matter or thing, intoxicating liquor, in contravention of this Act, for the person in whose service or on whose premises he is, he shall be held equally guilty with the principal, and shall suffer the like penalty. R. S. O. 1877, c. 32, s. 3.

Agents punishable as principals.

4. Any Justice of the Peace, Reeve, Mayor, Police Magistrate or Judge of a Division Court shall hear and determine in a summary manner any case arising within his jurisdiction under this Act; and every person making complaint against any other person for contravening this Act, or any part or portion thereof, before such Justice, Reeve, Mayor, Police Magistrate or Judge, may be admitted as a witness; and if the Justice, Reeve, Mayor, Police Magistrate, or Judge before whom the examina-

Who may hear and decide cases under this Act.

Costs.

tion or trial is had so orders, as he may if he thinks there was probable cause for the prosecution, the defendant shall not recover costs though the prosecution fails. R. S. O. 1877, c. 31, s. 4.

On what conditions only an appeal shall be allowed.

5.—(1) No appeal shall be allowed to any person complained of or convicted under this Act, unless, within three days after conviction or order made or judgment rendered, he enters into a bond to the Municipality in which the offence is alleged to have been committed, in the sum of \$100, jointly and severally with two good and sufficient sureties, to prosecute his appeal, and to pay all costs, fines and penalties to be awarded against him upon the final determination of the case.

By whom the recognizance in appeal shall be taken, etc.

(2) No bond shall be taken except by the Justice of the Peace, Reeve, Mayor, Police Magistrate or Judge of a Division Court before whom the complaint was made or the offender tried, and the security shall be to his satisfaction; and if the appeal is not successful, the bond shall be forfeited, and the amount thereof shall become a debt due to the Municipality within which the offence was committed, recoverable by action by and in the name of the Municipality, and it shall be the duty of the Clerk or Treasurer of the Municipality to prosecute the same, and the money shall be applied in the same manner as the fines hereinbefore mentioned. R. S. O. 1877, c. 32, s. 5.

Search for liquors allowed in certain cases.

6. If three persons being voters or entitled to vote at any municipal election of the Municipality within which the complaint is made, make oath or affirmation before a Justice, Reeve, Mayor, Police Magistrate, or Judge of a Division Court, that they have reason to believe and do believe that intoxicating liquor intended for sale or barter in contravention of this Act, is kept or deposited in a steamboat or other vessel, or in a carriage or vehicle, or in a store, shop, warehouse, or other building or place in the Municipality, or on any river, lake or water adjoining the same, at any place within which intoxicating liquor is by this Act prohibited to be sold or bartered or kept for sale or barter, the Justice, Reeve, Mayor, Police Magistrate, or Judge shall issue his warrant of search to any sheriff, police officer, bailiff or constable, who shall forthwith proceed to search the premises, steamboat, vessel or place described in the warrant, and if intoxicating liquor be found therein, he shall seize the same, and the barrels, cask or other packages in which it is contained, and convey them to some proper place of security, and there keep them until final action is had thereon; but no dwelling house in which, or in part of which a shop or bar is not kept, shall be searched, unless one at least of the complainants testifies on oath to some act of sale of intoxicating liquor therein or therefrom, in contravention of this Act, within one month from the time of making the complaint. R. S. O. 1877, c. 32, s. 6.

Seizure.

Dwelling house not to be searched except in certain cases.

7. The owner or keeper of the liquor seized as aforesaid, if he is known to the officer seizing the same, shall be summoned forthwith before the Justice or person by whose warrant the liquor was seized, and if he fails to appear, or if it is proved to the satisfaction of the Justice or person who issued the warrant, that the liquor was kept or intended for sale or barter, in contravention of this Act, it shall be declared forfeited, with any package in which it is contained, and shall be destroyed by authority of the written order to that effect of the Justice, Reeve, Mayor, Police Magistrate or Judge, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, who shall join with the officer by whom the liquor has been destroyed, in attesting that fact upon the back of the order by authority of which it was done; and the owner or keeper of the liquor shall pay a fine of \$40 and costs, or, in default thereof, be committed to prison for three months. R. S. O. 1877, c. 32, s. 7; 50 V. c. 8, Sched.

Owners of liquor to be summoned.

Destruction of liquors illegally kept.

Fine.

8.—(1) If the owner, keeper or possessor of liquor seized under the provisions of this Act is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of the seizure has been advertised, with the number and description of the package as near as may be, for two weeks, by posting up a written or printed notice and description thereof in at least three public places.

Proceedings if the owner is unknown, etc.

(2) If it is proved within such two weeks to the satisfaction of the Justice, Reeve, Mayor, Police Magistrate or Judge by whose authority the liquor was seized, that it was not intended for sale or barter, in contravention of this Act, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the warrant, which shall be returned to the Justice or person who issued the same; but if, after the advertisement as aforesaid, it appears to the Justice, Reeve, Mayor, Police Magistrate or Judge, that the liquor was intended for sale or barter, in contravention of this Act, then the liquor, with the package in which it is contained, shall be forfeited, condemned and destroyed. R. S. O. 1877, c. 32, s. 8.

Liquor not intended for sale, etc.

Forfeiture and destruction of liquor intended for sale.

9. Payment or compensation for liquor sold or bartered in contravention of this Act, whether in money or securities for money, labour or property of any kind, shall be held to have been received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the party making, paying or furnishing the same; and all sales, transfers, conveyances, liens and securities of every kind which either in whole or in part have been given for or on account of intoxicating liquor sold or bartered in contravention of this Act, shall be null against all persons, and no right shall be acquired thereby, and no

Payments for liquor illegally sold, etc., in contravention of this Act, to be void.

action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold or bartered in contravention of this Act. R. S. O. 1877, c. 32, s. 9.

Witnesses may be compelled to appear in certain cases under this Act.

10. A Justice of the Peace, Reeve, Mayor, Police Magistrate or Judge, authorized to hear and determine offences against this Act, may summon any person represented to him as a material witness in relation to any offence against this Act: and if such person refuses or neglects to attend, pursuant to the summons, the Justice or person authorized to try the offence may issue his warrant for the arrest of the person so summoned, and he shall be brought before the Justice or person issuing the warrant, and if he refuses to be sworn, or to affirm, or to answer any question touching the matter under investigation, he may be committed to the common gaol, there to remain until he consents to be sworn or to affirm and answer. R. S. O. 1877, c. 32, s. 10.

Provisions of Acts for protection of Justices extended to cases under this Act.

11. All the provisions of any law for the protection of Justices of the Peace, when acting as such, or to facilitate proceedings by or before them, in matters relating to summary convictions and orders, shall, in so far as they are not inconsistent with this Act, apply to every functionary empowered to try offenders against this Act, and such functionary shall be deemed a Justice of the Peace within the meaning of such law, whether he be or be not a Justice of the Peace for other purposes. R. S. O. 1877, c. 32, s. 11.

Costs of enforcing judgment to be included.

12. Where judgment is rendered for costs, there shall be included therein fees for such prospective services as are necessary to enforce the judgment. R. S. O. 1877, c. 32, s. 12.

Costs under this Act.

13. Upon judgment or affirmance of an appeal, and for any other proceeding under this Act had before a Justice, Reeve or other functionary, the costs shall be the same as are now by law allowed for proceedings of a like nature;—and in actions and proceedings in any higher Court, the costs shall be the same as are usually allowed in such Court. R. S. O. 1877, c. 32, s. 13.

Actions and proceedings not to be void for want of form.

14. No action or other proceeding, warrant, judgment, order, or other instrument or writing, authorized by this Act, or necessary to carry out its provisions, shall be held void, or be allowed to fail for defect of form. R. S. O. 1877, c. 32, s. 14.

4. DRAINAGE WORKS.

CHAP. 36.—EXPENDITURE OF PUBLIC MONEY FOR DRAINAGE, p. 371.

37.—MUNICIPAL DRAINAGE AID ACT, p. 386.

38.—TILE, STONE AND TIMBER DRAINAGE, p. 390.

CHAPTER 36.

An Act respecting the Expenditure of Public Money for Drainage Works.

SHORT TITLE, s. 1.	GRUBBING AND SPREADING EARTH, ss.
EXPENDITURE FOR DRAINAGE WORKS AUTHORIZED, ss. 2, 3.	33, 34.
WHEN COMMISSIONER MAY UNDERTAKE DRAINAGE WORKS.	ASSESSMENT ROLL TO BE DEPOSITED WITH COMMISSIONER OF PUBLIC WORKS, AND IN REGISTRY OF- FICE, s. 35.
At request of a Municipal Coun- cil, s. 4.	ASSESSMENT NOT INVALIDATED BY OMISSION TO FILE ROLL, s. 36.
On application by a majority of owners, s. 5.	ASSESSMENT ROLL NOT AFFECTED BY IRREGULARITY IN APPOINTMENT OF ASSESSORS, s. 37.
WHEN WORKS MAY BE EXTENDED INTO AN ADJOINING MUNICIPAL- ITY, s. 6.	CORRECTION BY JUDGE OF ERRORS IN ROLL, ss. 38-41.
ASSESSMENT OF LANDS BENEFITED, ss. 7-14.	COLLECTION OF ASSESSMENT, ss. 42-52.
APPEALS FROM ASSESSMENT, ss. 15-20.	ASSESSMENT, A FIRST CHARGE ON LAND, s. 43.
ASSESSMENT OF LANDS IN ADJOIN- ING MUNICIPALITIES.	HOW LAND MAY BE DISCHARGED FROM THE RENT CHARGE, ss. 53-57.
Publication of roll when lands lie in two municipalities, s. 21.	INCREASED RENT TO BE PAID BY TENANTS OF IMPROVED LANDS TO BE DETERMINED BY ASSESSORS, s. 58.
When lands in adjoining munici- palities may be charged though works not carried into it, s. 22.	PAYMENT OF RENT CHARGE ON CROWN LANDS, s. 59.
Assessment of lands of an adjoining municipality, ss. 22-25.	DISPUTES AS TO BOUNDARIES TO BE SETTLED BY ASSESSORS, s. 60.
Arbitration in case of objection to the assessment, ss. 26-30.	DISPUTES BETWEEN MUNICIPALITIES, ETC., AS TO DAMAGES, TO BE RE- FERRED TO ARBITRATION, s. 61.
Repair and maintenance of works after completion, s. 31.	ASSESSMENT WHERE TWO OR MORE MUNICIPALITIES HAVE APPLIED FOR DRAINAGE, ss. 62-66.
ADJOINING MUNICIPALITY USING A DRAIN MAY BE ASSESSED FOR CONSTRUCTION AND MAINTEN- ANCE, s. 32.	

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short title. **1.** This Act may be cited as "*The Ontario Drainage Act.*" R. S. O. 1877, c. 33, s. 1.

Expenditure authorized. **2.** The Treasurer of the Province may, with the authority of the Lieutenant-Governor in Council, advance out of the public moneys of the Province any sum or sums of money so that the same, with what has been already expended under *The Ontario Drainage Act of 1873*, or under *The Ontario Drainage Act*, chapter 33 of the Revised Statutes of 1877, do not exceed in the whole the sum of \$200,000, to be expended in Drainage Works, to be executed under the provisions of *The Act respecting the Public Works of Ontario*, and of this Act. R. S. O. 1877, c. 33, s. 2.

36 V. c. 38.

Rev. Stat. c. 33.

Separate account of expenditure for drainage works to be kept. **3.** The Commissioner of Public Works shall cause a separate account to be opened in the books of his Department, in which shall be regularly entered a true and exact statement of all sums of money received, paid and expended about any drainage or improvement by means of drainage, embankment, culverts, or other work in connection with drainage, made under the provisions of the aforesaid Act, and of the several articles, matters or things for which any sum of money has been so disbursed and paid. R. S. O. 1877, c. 33, s. 3.

Commissioner of Public Works may undertake drainage on request of municipality, **4.** The Commissioner of Public Works may, on the written application of the Council of any Municipality asking for drainage works within the Municipality, or along a town line of the Municipality, undertake and complete the same. R. S. O. 1877, c. 33, s. 4.

or on petition of resident property holders. **5.** The Commissioner of Public Works, on the petition of a majority of all the owners, or on the petition of a majority of the owners as shewn by the last revised assessment roll to be resident on the property described in the petition, and the whole or a portion of which is to be benefited by the drainage, may undertake and complete the same, as if the Council had applied for the drainage. R. S. O. 1877, c. 33, s. 5.

When work may be extended into other municipalities. **6.** Where it is necessary to continue the drainage works beyond the limits of any Municipality, the engineer employed by the Commissioner of Public Works may continue the survey and levels into the adjoining Municipality, until he finds fall enough to carry the water beyond the limits of the Municipality in which the drainage was commenced, and the Commissioner may undertake and complete the same as if such adjoining Municipality or inhabitants thereof had petitioned for the same. R. S. O. 1877, c. 33, s. 6.

Notice to Council to appoint assessors. **7.** The Commissioner of Public Works shall notify the Council of any Municipality in which, or along any town line of which drainage works have been executed under the foregoing provisions, requesting them to appoint three Assessors, who shall

assess all lands and roads benefited by such drainage. R. S. O. 1877, c. 33, s. 7.

8. If the Council so notified fails to appoint the Assessors within one month after the notification by the Commissioner of Public Works, then the Official Arbitrators, or such other persons as the Commissioner of Public Works may appoint, shall make the assessment in the same manner and under the formalities hereafter laid down for the guidance of the Assessors. R. S. O. 1877, c. 33, s. 8.

How assessment may be made on failure of Council to appoint assessors.

9. The Assessors shall, before proceeding to make the assessment, take and subscribe the following oath (or, in case of those who affirm, make and subscribe the following affirmation) before a Justice of the Peace: which oath or affirmation shall be deposited with the assessment roll as provided in section 14.

Oath of assessors.

"I, *A. B.*, do swear (or affirm) that I will to the best of my ability and knowledge make a true and honest assessment of the lands drained or benefited by such drainage in proportion to the benefit derived by each road, lot, or part of lot thereby: So help me God" (or in case of affirmation "All which I do solemnly affirm"). R. S. O. 1877, c. 33, s. 9.

10.—(1) After Assessors have commenced to make their assessment, the council shall have no authority to remove them, or any of them, but in case any of the Assessors shall, after commencing the assessment, die or resign, or become incapacitated from proceeding with the assessment, the council may with the assent of the Lieutenant-Governor in Council, appoint another Assessor to act in the place of the Assessor who has died, resigned, or become incapacitated, and the declaration of the Lieutenant-Governor in Council of such incapacity, shall be conclusive evidence thereof.

Appointment of assessors in case of vacancy.

(2) In the event of such appointment, the Assessors need not commence the assessment anew, but may proceed with and complete the roll which had been commenced. 45 V. c. 26, s. 18 (2, 3).

11. As soon as conveniently may be after any works for the drainage or improvement of any land, authorized to be executed under *The Act respecting the Public Works of Ontario*, have been completed, the Commissioner shall furnish the Assessors with a map of the Municipality, with the drain or drains marked upon it, and assessment rolls such as are used for ordinary assessments, and a statement of the sums which have been expended in and about the works so executed, including all expenses incident thereto, and interest upon all payments, but not including expenses of preliminary surveys, together with all such maps, plans, sections and other documents or information as may seem necessary. R. S. O. 1877, c. 33, s. 10.

Commissioner to give certain information to the Assessors.

Rev. Stat. c. 33.

How and when assessments to be made.

12. Upon receiving the plans, maps and other documents as aforesaid, the Assessors shall visit and inspect the lands and shall assess them, setting opposite each parcel of land the proportion of the total amount of the sums which have been expended, as aforesaid, which ought to be payable in respect of the several parcels or lots of the land or road so drained or improved. R. S. O. 1877, c. 33, s. 11.

Assessment of lands.

13. The Assessors shall assess all lands and roads benefited by drainage undertaken under the formalities prescribed in section 5, as if the same had been undertaken on the application of the Municipality. R. S. O. 1877, c. 33, s. 12.

Assessors to deposit copy of their assessment with Clerk of Municipality.

14. The Assessors shall, forthwith after they have completed the assessment, deposit an attested copy of their assessment roll with the Clerk of the Municipality which, or the inhabitants of which, applied for the drainage. R. S. O. 1877, c. 33, s. 13.

Appeal from assessment.

15. The assessment shall be subject, in every case of complaint by the owner or person interested in any property assessed, whether of overcharge, or of undercharge of any other property assessed, or that property which should be assessed has been wrongfully omitted to be assessed, to an appeal to the Court of Revision of the Municipality in which the lands or roads benefited by the drainage lie; and the proceedings for trial of such complaints shall be such as are had upon complaints to the Court of Revision under *The Assessment Act*. R. S. O. 1877, c. 33, s. 14.

Clerk of Municipality to publish the assessment.

16. The Clerk of the Municipality with whom the assessment roll has been deposited shall, within six days after the assessment roll has been so deposited with him, publish the same for four weeks in some paper in the Municipality, or, if no newspaper be published therein, then in some newspaper in the nearest Municipality, together with a notice of the holding of a Court or Courts of Revision, as the case may require. R. S. O. 1877, c. 33, s. 15.

Courts of Revision.

17. The Councils of the Municipalities in which the lands or roads benefited lie shall, from time to time as occasion may require, hold Courts of Revision for the hearing of complaints against the assessment on some day not earlier than twenty nor later than thirty days from the day on which the assessment roll was first published; and such Courts shall be constituted in the same manner and have the same powers as Courts of Revision under *The Assessment Act*. R. S. O. 1877, c. 33, s. 16.

Reference of complaints against assessment.

18. The Clerk with whom the roll is deposited shall transmit to the Court of Revision of each Municipality affected, a certified copy of so much of the said roll as relates to such Municipality. R. S. O. 1877, c. 33, s. 17.

19. In case of appeal from the Court of Revision the same shall be to the Judge, or Junior or acting Judge of the County Court of the County within which the Municipality is situate; and such Judge and the Clerk of the Municipality and the Clerks of the Division Courts therein respectively shall have the same powers and duties, as nearly as may be, as they have upon appeals from the Court of Revision under *The Assessment Act*. R. S. O. 1877, c. 33, s. 18.

Appeal to Judge.

Powers etc., of the Judge and Clerk.

20. In case, on a complaint or appeal, the assessment is varied in respect of the property which is the subject of the complaint or appeal, the Court or Judge, as the case may be, shall vary *pro rata* the assessment of the property and of the other lands and roads benefited as aforesaid, without further notice to the persons interested therein, so that the aggregate amount assessed shall be the same as if there had been no appeal; and the Judge, or, in case there is no appeal to the Judge, the Court of Revision shall return the roll to the Municipal Clerk from whom it was received, and the Assessors shall prepare and attest a roll in accordance with their original assessment as altered by the revision. R. S. O. 1877, c. 33, s. 19.

Variation of assessment on complaints or appeals.

21. Where lands or roads in an adjoining Municipality, or lying between two Municipalities, are assessed, the assessment roll shall not be published, as hereinbefore provided, until the amount to be paid by the adjoining Municipality is determined by arbitration or otherwise, as hereinafter provided. R. S. O. 1877, c. 33, s. 20.

When assessment roll to be published in case lands lie in two municipalities.

22. Where the drainage works do not extend beyond the limits of the Municipality in which they were commenced, but in the opinion of the Assessors benefit lands in an adjoining Municipality, or greatly improve any road lying within any Municipality, or between two or more Municipalities, then the Assessors shall charge the lands so benefited and the Corporation or Company whose road or roads are improved, with such proportion of the costs of the work as they may deem just; and the amount so charged for roads, or agreed upon by the Arbitrators hereinafter referred to, shall be paid out of the general funds of the Municipality or Company. R. S. O. 1877, c. 33, s. 21.

When lands in an adjoining Municipality may be charged, though works not carried into such municipality.

23. The Assessors shall determine and report to the Council of the Municipality which, or inhabitants of which, asked for the drainage, whether the drainage shall be maintained solely at the expense of the Municipality, or whether it shall be constructed and maintained at the expense of both Municipalities, and in what proportion. R. S. O. 1877, c. 33, s. 22.

Report as to which municipality shall maintain drainage works.

24. The Council of the Municipality which, or certain inhabitants of which, applied for the drainage, shall serve the Head of the Council of the Municipality into which the same is continued, and whose lands or roads are benefited without

Council of municipality wherein work begun to notify municipality to be benefited.

the drainage being continued, with a copy of the assessment roll aforesaid, so far as it affects such last mentioned Municipality; and unless the same is appealed from, as hereinafter provided, it shall be binding on the Council of such Municipality. R. S. O. 1877, c. 33, s. 23.

Council of municipality wherein work not begun to raise money.

25. The Council of such last mentioned Municipality shall be bound, as if they had petitioned for such drainage, as provided in section 4 of this Act, to raise such sum as may be named in the assessment roll, or in case of an appeal, for such sum as may be determined by the Arbitrators hereinafter mentioned. R. S. O. 1877, c. 33, s. 24.

Council of municipality wherein work not begun may appeal; arbitration thereon.

26.—(1) The Council of the Municipality into which the drainage works have been continued, or whose lands, road or roads are benefited without the drainage works being carried within its limits, may, within ten days from the day in which the copy of the assessment roll was served on the Head of the Municipality appeal therefrom; in which case they shall serve the Head of the Corporation from which they received the assessment roll with a written notice of appeal.

(2) The notice shall state the grounds of appeal, the name of an Arbitrator, and call upon the Corporation to appoint an Arbitrator in the matter on their behalf, within ten days after the service of the notice; and in default thereof it shall be lawful for the Council of the Municipality so appealing to appoint such second Arbitrator, and the two Arbitrators so appointed shall forthwith appoint a third Arbitrator in the matter.

(3) In no case shall the Assessors, or any of them, or a member or officer of any Council concerned, be appointed or act as Arbitrator. R. S. O. 1877, c. 33, s. 25.

Appointment of third arbitrator by County Judge.

27. If, after the Arbitrators have been appointed as aforesaid, they fail or neglect for the space of six days to appoint a third Arbitrator, the Judge of the County Court of the County in which the Municipality appealing is situated, shall, within four days after a request in writing made upon him by either of the two Arbitrators appointed as above, appoint a third Arbitrator. R. S. O. 1877, c. 33, s. 26.

Oath of arbitrators.

28. The Arbitrators, before proceeding to try the matter of the arbitration, shall take and subscribe the following oath (or in case of those who affirm, make and subscribe the following affirmation) before a Justice of the Peace; which oath or affirmation shall be filed with the award:—

“I, A. B., do swear (or affirm) that I will well and truly try the matter referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge: So help me God.” (Or, in case of Affirmation, “All of which I do solemnly affirm.”)

R. S. O. 1877, c. 33, s. 27.

29. The Arbitrators shall, within ten days after the appointment of the third Arbitrator, meet at such place as they may agree upon, and shall then hear and determine the matter in dispute, and make their award, which shall be binding on all parties; and one copy thereof shall be filed with the Clerk of each of the Municipalities interested, one shall be filed with the Registrar of Deeds for the County or Riding in which either of the Municipalities is situate, and one with the Commissioner of Public Works. R. S. O. 1877, c. 33, s. 28.

30. In case of difference between the Arbitrators, the decision of any two of them shall be conclusive. R. S. O. 1877, c. 33, s. 29.

31.—(1) It shall be the duty of each Municipality, in the proportion determined by the Assessors or Arbitrators (as the case may be), or until otherwise determined by the Assessors or Arbitrators, under the same formalities, as near as may be, as provided in the preceding sections, to preserve, maintain and keep in repair drainage works executed under the foregoing provisions within its own limits, either at the expense of the Municipality, or parties more immediately interested, or at the joint expense of such parties and the Municipality, as to the Council, upon the report of the Assessors, when finally passed, may seem just.

(2) In any case wherein, after the drainage works have been fully made and completed, the same have not been continued into any other Municipality than that in which the same were commenced, or wherein the lands or roads of any such other Municipality are not benefited by the drainage works, it shall be the duty of the Municipality making the drainage works, to preserve, maintain, and keep in repair the same at the expense of the lots, parts of lots, and roads, as the case may be, as agreed upon and shewn in the assessment roll when finally passed. The Council may from time to time change such assessment roll on the report of an engineer appointed by them to examine and report on the drains and repairs. R.S.O. 1877, c. 33, s. 30 (1, 2).

(3) A municipality liable to keep in repair such drainage works, and neglecting or refusing so to do, upon reasonable notice in writing being given by any person interested therein, and who is injuriously affected by such neglect or refusal, may be compelled, by mandamus to be issued from any Court of competent jurisdiction, to make from time to time the necessary repairs to preserve and maintain the same, and shall be liable to pecuniary damage to any person who or whose property is injuriously affected by reason of such neglect or refusal. 47 V. c. 8, s. 1.

32. Should a drain, constructed under the provisions of this Act, be used as an outlet, or otherwise, by any other Municipality, Company, or individual, the Municipality, Company, or

Award.
Filing.

Decision of
majority
conclusive.

Repair and
maintenance
of work after
completion
where works
are in more
than one
municipality.

Where works
are only in one
municipality.

Enforcing re-
pair.

Case of a drain
being used by
another munici-
pality, etc.

individual using the same as an outlet or otherwise may be assessed for the construction and maintenance thereof in such proportion and amount as may be ascertained by the Assessors or Arbitrators, under the formalities provided in the preceding sections. R. S. O. 1877, c. 33, s. 31.

Ditch along road.

Timber or stumps in the road.

Construction of the road.

33. Where a ditch is being constructed along a road allowance, contracts may be made for spreading the earth taken from the ditch on the road; and if the road or any part thereof is timbered, or if stumps are in the way, the timber shall be removed; and not less than twelve feet of the centre of the road shall be grubbed before the earth is spread upon it. R. S. O. 1877, c. 33, s. 32.

Charges for grubbing, etc.

34. The removal of the timber, grubbing, and spreading of the earth, together with such portion of the cost of the ditch as the Assessors may deem just and proper, shall be charged to the Municipality and paid out of its general funds. R. S. O. 1877, c. 33, s. 33.

Deposit of duplicates of assessment roll.

35. The Council of the Municipality which asked for the drainage, or where the drainage was asked for by a majority of the owners resident on the land to be drained or benefited, or by a majority of all the owners, then the Council of such Municipality shall within one month after the assessment roll has been finally settled by the Court of Revision, Judge or Arbitrators (as the case may be), deposit a duplicate of the same with the Commissioner of Public Works, and a duplicate of the same shall also be deposited with the Registrar of the Registry Division in which the lands are situated, or if they are situated in more Divisions than one, then with the Registrar of each of such Divisions, together with a proper map or plan annexed thereto, describing the Township and the several lots or parcels of land, and road or roads to which the assessment roll or award relates; and the Registrar is hereby required to receive the same, and to endorse thereon the date at which it was deposited with him; and the assessment roll, when so finally settled and deposited, shall be binding and conclusive on all parties: and a copy thereof, certified by the Registrar, shall be evidence that the assessment was duly done. R. S. O. 1877, c. 33, s. 34.

Proof of assessment roll.

Assessment not invalidated by omission to file roll.

36. In case the Council of the Municipality shall have omitted to file with the Registrar, or with the Commissioner of Public Works, a duplicate of the assessment roll within the time specified in the preceding section of this Act the omission shall not be held in any way to invalidate the assessment, but the council shall forthwith, as soon as their attention is called to the omission, file the duplicate or duplicates in accordance with the provisions of the said section. 44 V. c. 3, s. 12.

37. No assessment roll prepared under this Act shall be affected by any irregularity or informality in the appointment of the assessors who prepared the same; but every assessment roll deposited with the Registrar or Registrars of the county or counties, riding or ridings, in which the lands are situate, in accordance with the requirements of section 35, shall be good, valid and effectual, notwithstanding any irregularity therein, or in the manner in which the same was prepared: Provided nothing herein contained shall prevent any roll being corrected in accordance with the succeeding four sections. 45 V. c. 26, s. 18 (1).

Assessment roll not affected by irregularity in appointment of assessors.

38. If, after the assessment roll has been deposited with the Registrar or the Commissioner of Public Works, it is found that through mistake, inadvertence, or otherwise, the amounts set opposite the several parcels or lots of land and roads do not in the aggregate amount to the sum which should have been charged in respect of the drainage or other works, or exceed the same, the Judge of the county court of the county may, upon the application of the Commissioner of Public Works, or of any municipal council interested, cause to be produced before him the several copies of the assessment roll, and shall correct the errors therein, by striking out any incorrect amounts and inserting in their stead, in different coloured ink, the correct amounts. 44 V. c. 3, s. 6.

Correction by judge of errors in roll.

39. The amounts so settled by the Judge shall thereafter be substituted for the amounts named in the assessment roll. 44 V. c. 3, s. 7.

Corrected amounts to be substituted.

40. If the error is of such a nature that it can be corrected by making an indorsement that all the amounts in the roll, or any particular class thereof, should be increased or decreased in a uniform proportion, the Judge may, instead of altering all the figures, write upon the face of the roll an order directing such increase or decrease, and the amounts shall thereupon be deemed to be increased or decreased in accordance with the order. 44 V. c. 3, s. 8.

Judge may in certain cases order a general increase or decrease of amounts in the roll.

41. The Judge, upon the said application, shall have authority to take evidence under oath, and shall, where he considers it necessary, cause notice to be given to any of the persons whose assessments it is proposed to increase, but when the question to be discussed affects a number of persons it shall not be necessary to direct more than one of such class of persons to be notified; and where, in the opinion of the Judge, the council sufficiently represents the interest of all the persons assessed, or the interest of a particular class, he need not cause any person, or any person of such class to be notified. 44 V. c. 3, s. 9.

Power and authority of Judge.

42. The Council of every Municipality within which or along any town line of which drainage works have been completed, shall within three months after the assessment roll has

Councils to pass by-laws to collect assessments.

been finally settled, pass a by-law, requiring that the amount of money to be collected and charged on the several lots or parcels of land or roads by such Municipality shall be placed on the Collector's roll, from year to year, to be collected and paid over as prescribed in the following sections. R. S. O. 1877, c. 33, s. 35.

Assessment a first charge on land.

Rev. Stat. c. 33.

43. The respective sums of money which, by the said assessment roll, are specified as the proportions or contributions payable in respect of the roads or several parcels or lots of land so drained, or improved by drainage, or by any works under *The Act respecting the Public Works of Ontario*, towards the total amount of the sums expended on and about the drainage or improvements as aforesaid, shall be charged on such several parcels or lots of land, and that in preference to and with priority over all incumbrances on such land, in manner following, that is to say, every several parcel or lot of land shall be charged with a payment to Her Majesty of a rent-charge after the rate of seven dollars and sixty cents per annum rent for every one hundred dollars charged on such several parcels or lots, or roads, and so in proportion for every less amount, to be payable for the term of twenty-two years, to be computed from the first day of January next before the date hereinafter fixed for making the first payment; the first of such payments to be made on the first day of January next after the day a copy of the assessment roll was deposited, in pursuance of section 14, with the clerk of the municipality which, or the inhabitants of which, applied for the drainage, such payment to be for the preceding year. 44 V. c. 3, s. 1.

Collection of rent-charge.

44. Every rent-charge which shall have become charged on land by virtue of this Act, shall, except as hereinafter provided, be entered by the Clerk of the Municipality in which the said land is locally situate, in a column of the Collector's roll, to be headed "Charge under Drainage Act," and shall be collected and be recoverable by the Council of the said Municipality, by the same means and in the like manner in all respects as municipal rates and taxes are collected and recoverable under *The Assessment Act*; and the amount thereof shall be remitted by the local Treasurer to the Treasurer of the Province, within the space of one month after the same has become exigible, with interest at the rate of seven per centum during the non-payment. R. S. O. 1877, c. 33, s. 37.

Municipal Council to remit annual rent-charge though not collected.

45. The Council of every such Municipality shall assess and levy on the whole ratable property within its jurisdiction a sufficient sum in every year to enable the local Treasurer, over and above the other valid debts of the Corporation falling due within the year, to pay over to the Treasurer of the Province the amount of the rent-charge, within the space aforesaid, whether the same has been previously recovered from the parties or lands charged with the same or not; and the amount

hereby appointed to be remitted by the local Treasurer to the Treasurer of the Province shall be the first charge upon all the funds of the Municipality, for whatever purpose, or under whatever by-law they may have been raised. R. S. O. 1877, c. 33, s. 38.

46. No Treasurer or other officer of the Municipality shall pay any sum whatsoever, except for the ordinary current disbursements and salaries of clerks and other employees of such Municipality, out of any funds of the Municipality in his hands, until the sum then payable by the municipal Treasurer to the Treasurer of the Province, in respect of the rent-charge, has been paid to him; and if the municipal Treasurer or municipal officer pays any sum out of the funds of his Municipality except as aforesaid, contrary to the provisions hereinbefore made, in addition to any criminal liability which he may thereby incur, he shall be liable to the Treasurer of the Province for every sum so paid as for money received by him for the Crown; and any Reeve or Councillor wilfully or negligently omitting to see the foregoing provisions carried into effect, shall also be personally and individually liable to the Treasurer of the Province, for the full amount of the said rent-charge, which may be recovered with costs by the Treasurer of the Province in an action as for money had and received for Her Majesty's behoof. R. S. O. 1877, c. 33, s. 39.

Penalty on Treasurers, Reeve, etc., for neglect to see that remittance made.

47. If the assessment roll is not revised in time to place the instalment of rent-charge payable for the current year, or for any previous year, in the collector's roll, or if for any cause any instalment or instalments is or have been left off the roll for the proper year or years, then such instalment or instalments, with five per centum per annum added thereto, shall, in addition to the instalment for such year be placed on the collector's roll, when a collector's roll is next made out, unless the Lieutenant-Governor in Council shall take action under the next succeeding section. 44 V. c. 3, s. 2.

Provision where assessment roll not revised or instalment omitted from roll.

48. Where it appears to the Lieutenant-Governor in Council that it would be inexpedient to levy in one year the full amount of the arrears, he may direct that the same, with interest duly compounded at five per centum per annum, in accordance with the rules for calculating annuities, should be spread over the whole or part of the term of twenty-two years then unexpired, or that the commencement of the term should be postponed so that the period of twenty-two years shall be computed from the first day of January in some year subsequent to the day from which it would be computed under section 43 of this Act. 44 V. c. 3, s. 3.

Lieutenant-Governor in Council may postpone payment of arrears.

49. The Lieutenant-Governor in Council shall thereupon, by the same order, or by a subsequent order, state the proportion in which each item in the assessment roll shall be increased, and the number of years for which the increase shall take

Proportion in which items of assessment are to be increased to be stated in Order in Council.

effect, and a certified copy of any order passed under the preceding two sections, shall be attached to the duplicate roll in their respective offices, by the Commissioner of Public Works, the registrar, and the clerk of each municipality, with whom a duplicate of the roll had been deposited. 44 V. c. 3, s. 4.

Orders in
Council to be
laid before
Legislative
Assembly.

50. Every Order in Council made under the terms of the preceding two sections, shall, as soon as conveniently may be after the making of such order, be laid before the Legislative Assembly. 44 V. c. 3, s. 11.

Increased
amount a first
charge on
lands.

51. The several parcels or lots of land and roads mentioned in the assessment roll shall each thereafter be charged with such increased amount as a rent-charge, in lieu of the amount with which it is charged under the assessment roll, for the term mentioned in the Order in Council and in preference to and with priority over all incumbrances. 44 V. c. 3, s. 5.

Provisions as
to rent-
charge.

52. The provisions of sections 44 to 46 shall apply to the rent-charge substituted under sections 38 to 41, or under sections 47 to 51 for the rent-charge in the assessment roll. 44 V. c. 3, s. 10.

How the owner
of land assessed
may discharge
it from the
rent-charge.

53. The owner of a parcel or lot assessed for drainage works may, within one month from the time that the assessment roll has been finally revised, discharge his parcel or lot from the rent-charge, by paying to the Treasurer of the Municipality the amount assessed against such parcel or lot; and thereafter, in case all rents placed upon the collector's roll have been duly paid, may discharge the same by paying to the Treasurer the amount of the assessment less two forty-fifths thereof if one year's rent has been paid, and less four forty-fifths thereof if the rent for two years has been paid, and in like manner deducting from the amount of the assessment two forty-fifths thereof for each year's rent that has been paid. R. S. O. 1877, c. 33, s. 41.

Certificate of
discharge.

54. Upon receiving payment of the amount required in order to discharge any parcel or lot, the Treasurer shall make out in duplicate a certificate (to which the Clerk shall affix the seal of the Municipality) to the effect or in the form following:

"I, A. B., Treasurer of the Township of G., in the County of X., do hereby certify that the sum of \$ was in 18 assessed against lot in the concession of the said Township on account of Drainage Works under an assessment roll deposited with the Registrar of the County of X., on the day of 18 . That a rent-charge of \$ per annum has been paid in respect of such assessment for years, and the sum of \$ is now paid by C. D., in discharge of the rent-charge imposed on account of the said assessment, and the said lot is therefore discharged therefrom.

R. S. O. 1877, c. 33, s. 42

55. The Treasurer shall retain one of the certificates, and deliver the other to the person paying off the charge, and with the next remittance in respect of rent-charges made by him to the Treasurer of the Province, shall remit the amounts received by him for the purpose of paying off any rent-charges, and shall transmit therewith the duplicate certificate of discharge retained by him. *Treasurer's duty as to discharges and remittances.* R. S. O. 1877, c. 33, s. 43.

56. Upon the production of a certificate of discharge under the corporate seal of the Municipality, the Registrar shall number and file the same, and upon the line on which the parcel or lot is entered upon the assessment roll shall write, "*Discharged by No.*" (giving the registry number of the discharge). *Registry of discharge.* R. S. O. 1877, c. 33, s. 44.

57. The Treasurer for making out the discharge in duplicate, and the Registrar for registering the same, shall be each entitled to charge a fee of fifty cents. *Fees.* R. S. O. 1877, c. 33, s. 45.

58.—(1) In case land which has been drained or improved by drainage under this Act is not, at the time of making the said assessment roll, in the actual possession of the owner or proprietor, but is held under him by some other person or persons by virtue of a lease, agreement or other instrument having more than one year to run, then and in such case the Assessors shall determine the amount of increased rent or tax which the tenant or occupant shall pay in consequence of any improvement in the land, regard being had to the duration, extent and value of the interest of the occupant in the premises, and to the particular circumstances of the case; and the landlord of the tenant and occupant shall have the same remedies for the recovery of such increased rent as he was entitled to for the rent originally stipulated. *If land improved be occupied under lease etc., the assessors to determine the increased rent or taxes to be paid by tenant.*

(2) The decision of the Assessors shall be signified by endorsement on the lease or instrument under the hands of the Assessors; and every tenant and occupier who pays for the land in his occupation any sum charged thereupon, under and by virtue of the provisions of this Act, shall be and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he so pays as aforesaid; but nothing herein contained shall extend, or be construed to enable any occupier or lessee to deduct from his rent any costs or expenses incurred by non-payment of the moneys hereby imposed or authorized to be paid. *Remedy for increased rent. Case of payment by occupant of the rent-charge.* R. S. O. 1877, c. 33, s. 46.

59. Where a rent-charge has become charged on land belonging to Her Majesty, the said rent-charge shall not be levied or collected by the Council of the Municipality in which the land is situated, or their Collector, Treasurer, or officer, but the said rent-charge as it falls due, or in lieu thereof the principal sum to which the said rent-charge corresponds, shall *In case of Crown lands, Commissioners of Crown Lands to pay rent-charge.*

be paid over by the Commissioner of Crown Lands to the Treasurer of the Province for Her Majesty's behoof, and the sum or sums so paid over shall be entered by the said Treasurer in the separate account hereinbefore appointed to be opened in the books of his Department; and the said rent-charges, or the principal sums received in lieu thereof, and also all other rent-charges or principal sums received in lieu thereof, may continue to be applied in carrying out the purposes of this Act. R. S. O. 1877, c. 33, s. 47.

Disputes as to boundaries to be settled by the Assessors.

60. If a dispute or difference arises between persons interested or claiming to be interested in land or water to be drained or improved in pursuance of this Act, touching and concerning any boundaries, or other rights or interests which the said persons, or any of them, have or claim to have in or over such land or water, or touching any other matter relating thereto, it shall be lawful for the Assessors, as well by the examination of witnesses upon oath as by all other proper and sufficient evidence, to examine into, hear and determine the same, and the determination shall be binding and conclusive upon all persons for the purposes of this Act, but not further or otherwise. R. S. O. 1877, c. 33, s. 48.

Disputes as to damages to be referred to arbitration.

61. Should a dispute arise between individuals, or between individuals and a Municipality or company, or between a company and Municipality, or between Municipalities, as to damages alleged to have been done or to be done to the property of any Municipality, individual or company, in the construction of drainage works, or consequent thereon, then the Municipality, company or individual complaining, shall refer the matter to arbitration, as provided in *The Municipal Act*: and the awards so made shall be binding on all parties. R. S. O. 1877, c. 33, s. 49.

Assessment of municipalities where two or more municipalities derive benefit from drainage works, and damages awarded.

62. In cases where two or more Municipalities, which will jointly participate in the benefit of any drainage works, have applied in manner hereinbefore prescribed, to the Commissioner of Public Works, either on the written application of the Council of any such Municipality, or by petition of the majority of all the owners, or of the majority of the owners as shewn by the last revised assessment roll to be resident on the property described in the petition, in any such Municipality, or by the Council of one Municipality, and a majority as aforesaid of the owners of land in another Municipality described in the petition for the drainage of the property, and the drainage has been undertaken and completed by the Commissioner of Public Works, and an award for damages has been made under the next preceding section, then the amount so awarded in respect of the damages shall be estimated and assessed as part of the cost of the drainage works which caused them; and all the Assessors appointed by such Municipalities as hereinbefore pre-

scribed, being three in number for each Municipality, or the Official Arbitrators, or the persons appointed by the Commissioner of Public Works, as the case may be, shall act in conjunction in making the assessment throughout each and all of such Municipalities, and the assessment shall be made in the same manner and with the same formalities as are herein prescribed in the case of a single Municipality. R. S. O. 1877, c. 33, s. 50.

63. The Assessors, Official Arbitrators, or persons appointed by the Commissioner of Public Works, as the case may be, shall, when they have completed the assessment mentioned in the preceding section, deposit an attested copy of their assessment roll with the County Judge of the County in which the Municipalities are situate, and the assessments shall be subject to the like appeal to the Judge as assessments in regard to a single Municipality. R. S. O. 1877, c. 33, s. 51.

Assessment roll to be deposited with County Judge.

64. The Judge shall, upon receiving the assessment roll, forthwith publish it in manner heretofore provided in regard to a single Municipality, together with a notice that he will, at such time, being not earlier than twenty nor later than thirty days from the day on which the assessment roll was first published and at such place as he may appoint, hear and determine all matters in dispute in regard to the assessment, and his decision thereon shall be absolute and final, and the Judge shall in all such matters have the powers and duties mentioned in section 19 of this Act. R. S. O. 1877, c. 33, s. 52.

Appeals from assessment.

65. The Judge shall not be liable either personally or officially, for the cost of publication, but shall be considered as acting therein as the duly authorized agent of the Municipalities interested, which alone shall be liable for the cost, in the proportion to be settled by the Judge, based upon the proportional amount assessed against each Municipality. R. S. O. 1877, c. 33, s. 53.

Cost of publication.

66. Where, in the case of two or more Municipalities which will jointly participate in the benefit of drainage works, an award for damages has been made under section 61, but the Assessors for the Municipalities are unable to agree upon a general assessment throughout each and all the Municipalities, then the three Assessors for any single Municipality may jointly make a separate assessment roll for all the Municipalities, an attested copy of which shall be deposited with the County Judge, and the said Judge, at such time and place as he may appoint, shall hear and determine all differences between the Assessors as to the assessment, whether as regards the total amount thereof, or as regards the mode in which the same is to be apportioned between the several Municipalities and the lands therein, and the decision of the said Judge on all such matters shall be final and binding upon the Municipalities interested. R. S. O. 1877, c. 33, s. 54.

Assessment when assessors are unable to agree.

CHAPTER 37.

An Act respecting Municipal Debentures issued for Drainage Works.

SHORT TITLE, s. 1,
TOWNSHIP UNDERTAKING DRAINAGE
WORKS MAY APPLY FOR SALE OF
DEBENTURES, s. 2.
COMMISSIONER OF PUBLIC WORKS TO
REPORT AS TO INVESTMENT, ss.
3, 4.

INVESTMENT, ss. 5, 6.
DEBENTURES NOT TO BE QUESTIONED
AFTER INVESTMENT MADE, s. 7.
REMITTANCE OF AMOUNT PAYABLE ON
DEBENTURES TO THE PROVINCIAL
TREASURER, s. 8.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short Title.

1. This Act may be cited as "*The Municipal Drainage Aid Act.*" R. S. O. 1877, c. 34, s. 1.

Townships undertaking works under *The Municipal Act* may deposit with Commissioner of Public Works copies of plans, etc.

2.—(1) Every Township Municipality which has undertaken or proposes to undertake works under the provisions of *The Municipal Act*, or under the provisions of any other Municipal Act heretofore in force may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, deposit with the Commissioner of Public Works authenticated copies (if deemed necessary by the Commissioner), of the plans, specifications and estimates of the works, and a copy of the by-law; and may apply for the sale of the debentures authorized thereby.

Application for sale of debentures.

(2) The application shall be in writing, sealed with the seal of the Municipality, and signed by the Reeve or other head officer thereof, and shall be accompanied by two affidavits, one to be made by the said Reeve or other head officer, in form or to the effect set forth in Schedule A to this Act, and the other to be made by the Clerk of the Municipality, in form or to the effect set forth in Schedule B to this Act; the affidavits to be sworn before any Justice of the Peace. R. S. O. 1877, c. 34, s. 2.

Commissioner of Public Works to report as to investment.

3. The Commissioner of Public Works shall investigate and report to the Lieutenant-Governor in Council as to the propriety of the investments proposed in the applications, in the order of time in which they are deposited; and the reports

shall be disposed of by the Lieutenant-Governor in Council in the order of time in which the same are made. R. S. O. 1877, c. 34, s. 3.

4. The Commissioner of Public Works shall not certify to the propriety of the investment in any case in which the aggregate amount of the rates necessary for the payment of the current annual expenses of the Municipality and the interest and principal of the debts contracted by the Municipality exceed the aggregate value of three cents in the dollar on the whole value of the ratable property within its jurisdiction, or in any case in which the debentures to be issued under the by-law exceed \$30,000; and the amount invested under this Act in the purchase of debentures of any Municipality shall not at any one time exceed \$20,000. R. S. O. 1877, s. 34, s. 4.

When the Commissioner not to report propriety of investment.

5. The Lieutenant-Governor in Council may from time to time in his discretion invest any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any one time the sum of \$350,000, in the purchase of debentures issued under by-laws so deposited as aforesaid, in respect of which the Commissioner of Public Works certifies to the propriety of the investment. R. S. O. 1877, c. 34, s. 5; 42 V. c. 7. s. 1; 50 V. c. 6, s. 6.

Purchase out of Con. Rev. Fund of debentures.

6. On any such investment the Lieutenant-Governor may, in his discretion, advance the whole par value of debentures, or may retain such percentage thereof as he may see fit until the Commissioner of Public Works has reported that the works have been inspected and are completed; and the expenses in connection with the investigation and inspection made under this Act shall be deducted from the amount (if any) retained. R. S. O. 1877, c. 34, s. 6.

Lieutenant-Governor may advance par value of debentures.

7. After such investment has been made, the debentures shall not be questioned, and shall be deemed to be valid to all intents and purposes. R. S. O. 1877, c. 34, s. 7.

When debentures unquestionable.

8.—(1) The amount payable in any year under any such by-law or debentures for principal and interest shall be remitted by the Treasurer of the Municipality to the Treasurer of the Province, within the space of one month after the same has become exigible, together with interest at the rate of seven per centum per annum, during the time of default in payment; and in case of the continuance of such default, the Council of the Municipality shall in the next ensuing year assess and levy on the whole ratable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the Municipality, a sufficient sum to enable the Treasurer of the Municipality, over and above the other valid debts of the Corporation falling due within the year, to pay over to the Treasurer of the Province the amount in arrear, together with interest thereon at the rate of seven per centum per annum, during the time of default in pay-

Amount payable under by-law to be remitted to Provincial Treasurer.

Consequences of neglect.

ment, whether the same has been previously recovered from the parties or lands chargeable under the by-law with the same or not; and the amount so in arrear and interest shall be the first charge upon all the funds of the Municipality, for whatever purpose, or under whatever by-law they may have been raised.

Duty and
liability of
municipal
Treasurer
after default.

(2) No Treasurer or other officer of the Municipality shall after such default, pay any sum whatsoever, except for the ordinary current disbursements, and salaries of clerks and other employees of the Municipality, out of funds of the Municipality in his hands, until the amount so in arrear and interest have been paid to the Treasurer of the Province.

Liability of
Treasurers,
Reeves and
Councillors.

(3) If such Treasurer or municipal officer pays any sum out of the funds of his Municipality, except as aforesaid, contrary to the provisions hereinbefore made, in addition to any criminal liability which he may thereby incur, he shall be personally liable to the Treasurer of the Province for every sum so paid, as for money received by him for the Crown; and any Reeve or Councillor wilfully or negligently omitting to see the foregoing provisions carried into effect shall also be personally and individually liable to the Treasurer of the Province for the full amount so in arrear and interest, to be recovered with costs by the Treasurer of the Province, in an action as for money had and received for Her Majesty's behoof: but no assessment, levy or payment made under this section shall in anywise exonerate the persons or lands chargeable under the by-law from liability to the Municipality. R. S. O. 1877, c. 34, s. 9.

SCHEDULE A.

(Section 2.)

AFFIDAVIT OF REEVE OR OTHER HEAD OFFICER.

County of _____ To Wit, } I, _____ of _____
in the County of _____
and Province of Ontario, (*Reeve*) of the Township of _____
make oath and say :

1. That I have not been served with any notice of intention to make application to quash a certain by-law passed on the _____ day of _____

in the year of our Lord _____

by the Municipal Council of the said Township _____
in regard to the drainage of
a certain portion of the said Township, nor have I been served with any notice of intention to make application to quash any part of said by-law, nor with any notice to that or the like effect.

Sworn, etc.

R. S. O. 1877, c. 34, Sched. A.

SCHEDULE B.

(Section 2.)

AFFIDAVIT OF THE CLERK OF THE MUNICIPALITY.

County of _____ } I,
 To Wit. } of the _____ of
 _____ in the county of _____
 and Province of Ontario, Clerk of the Township
 of _____ make oath and say:

1. On the _____ day of _____ in the year
 of our Lord _____ the Municipal
 Council of the said Township of _____ passed a by-law in
 regard to the drainage of a certain portion of the said Township, a true
 copy of which is now shewn to me marked "A."

2. Before the said _____ day of _____
 the said by-law, together with a notice that any one intending to apply to
 have such by-law or any part thereof quashed, must, within ten days
 after the passing thereof, serve a notice in writing upon the Reeve or
 other head officer, and upon the Clerk of the Municipality, of his inten-
 tion to make application for that purpose to the High Court of Justice
 at Toronto, within two months from the final passing of the by-
 law, and, together with a notice of the time of holding the Court
 of Revision of the said Township, was published on (*insert dates of publica-*
tion) in the (*insert name of newspaper*), a newspaper published at _____
 in the Township of _____
 (*state facts with reference to publication shewing that the provisions of the*
Municipal Act have been complied with.)
 a copy of which newspaper containing the said by-law and notice is now
 shewn to me and marked "B."

3. I have not been served with any notice of intention to make appli-
 cation to quash said by-law, nor with any notice of intention to make
 application to quash any part thereof, nor with any notice to that or the
 like effect.

4. To the best of my knowledge, information and belief, no person
 assessed by the said by-law paid the amount of his assessment less the
 interest, or any part thereof, at any time before the actual issue of the
 Debentures thereunder, which were issued on the _____ day of _____
 in the year of our Lord _____

5. The amount of the rates assessed as set forth in said by-law have not
 been altered by the Court of Revision for the said Township of _____
 nor by the County Judge, nor has the said by-law been repealed or
 amended by the said Council of the said Township of _____
 but the said by-law is to all intents and purposes the same, and as valid
 and subsisting as it was when finally passed on the said _____
 day of _____ in the year of our Lord (*or otherwise, according*
to the fact).

6. The copies of the specifications and estimates for the said drainage
 now shewn to me and marked _____ are true and
 authentic copies of the specifications and estimates made by _____
 for the said drainage, as mentioned in the said by-law.

Sworn, etc.

R. S. O. 1877, c. 34, Sched. B; 46 V. c. 18, s. 572.

CHAPTER 38.

An Act respecting Tile, Stone and Timber Drainage
Debentures.

SHORT TITLE, s. 1.	PROVISIONS AS TO LOANS, ss. 12-14.
BORROWING POWERS OF COUNCILS, s. 2.	INSPECTOR OF DRAINAGE, ss. 15, 16.
BY-LAWS, s. 3.	SPECIAL RATES, s. 17.
DEBENTURES, ss. 4-6.	OWNER MAY DISCHARGE INDEBTED- NESS, s. 18.
COMMISSIONER OF AGRICULTURE TO REPORT AS TO INVESTMENT, s. 7.	RETURNS TO GOVERNOR IN COUNCIL, s. 19.
APPLICATION TO BORROW, s. 8.	AMOUNT DUE TO BE REMITTED AN- NUALLY TO PROVINCIAL TREAS- URER, s. 20.
ISSUE OF DEBENTURES, s. 9.	AFFIDAVITS, s. 21.
PURCHASE OF DEBENTURES, s. 10.	
DEBENTURES NOT TO BE QUESTIONED, s. 11.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as "*The Tile, Stone and Timber Drainage Act.*" 41 V. c. 9, s. 1; 42 V. c. 8, s. 7.

Borrowing
powers of
Councils.

2.—(1) The Council of every Town, Village or Township may pass by-laws from time to time, for borrowing for the purposes hereinafter mentioned, in sums of not less than \$2000, nor exceeding \$10,000, such moneys as they may consider expedient, and for issuing therefor the debentures of the Municipality in sums of \$100 each, payable within twenty years from the 1st day of August in the year in which the money is borrowed from the Municipality as is hereinafter provided, and bearing interest at the rate of five per centum per annum, and it shall not be necessary to submit the by-law to a vote of the electors of the Municipality before the passing thereof.

Proviso.

(2) The entire amount of the indebtedness of the Municipality in respect of moneys so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at any such time exceed the sum of \$10,000; nor shall a by-law hereunder be valid unless the same is passed at a meeting of the Council specially called for the purpose of considering the same, and held not less than four weeks after a notice of the day appointed for the meeting has been published in such newspapers as the Council by resolution may direct. 41 V. c. 9, s. 2; 42 V. c. 8, s. 8; 43 V. c. 6, s. 2; 48 V. c. 10, s. 3.

3. The by-law may be in the Form 1 in the Schedule to this Act, and shall be promulgated as provided by *The Municipal Act*. 41 V. c. 9, s. 5; 48 V. c. 10, s. 1. Form of by-law.

4. The debentures issued under the by-law may be issued and sold by the Municipality from time to time, as the Municipal Council thereof may require money, for the purpose only of lending the same for tile, stone or timber drainage, as hereinafter provided. 41 V. c. 9, s. 3; 42 V. c. 8, s. 1. Issue and sale of debentures.

5. The debentures shall be made payable to the Treasurer of Ontario, or order (Form 5), and shall have coupons attached, and each of such coupons shall be for the sum of seven dollars and thirty-six cents, being as nearly as may be the sum required to meet the annual interest of the debenture and the annual sinking fund necessary for the repayment of the debentures at the expiration of twenty years. 41 V. c. 9, s. 4; 50 V. c. 6, s. 2. Debentures.

6. The Council of a Municipality proposing to borrow money under the provisions of this Act, may, after the expiration of one month after the final passing of the by-law deposit with the Commissioner of Agriculture, a copy of the by-law, with affidavits of the Head Officer and Clerk of the Municipality in the Forms 2 and 3 to this Act, and may at any time thereafter apply for the sale of the debentures authorized thereby for such sums as hereinafter provided. The application shall be in writing and sealed with the seal of the Municipality and signed by the Head Officer thereof, and shall specify the names of the parties to whom the money is to be loaned. 48 V. c. 10, s. 2. Application for sale of debentures.

7. The Commissioner of Agriculture shall investigate and report to the Lieutenant-Governor in Council as to the propriety of the investments proposed in such applications in the order of time in which they are deposited; and the reports shall be disposed of by the Lieutenant-Governor in Council, in the order of time in which the same are made. 41 V. c. 9, s. 7. Commissioner of Agriculture to report to Lieutenant-Governor in Council.

8. Any person assessed as owner of land in the Municipality, wishing to borrow money for the purpose of tile, stone or timber drainage, may make application to the Council of the Municipality in the Form 4 to this Act. 41 V. c. 9, s. 8. Application to borrow.

9. On such application the Council may issue debentures for such amount within the sum authorized by this Act and by by-law of the Municipality, as they may deem expedient and proper, but not exceeding the sum or sums applied for, and not exceeding seventy-five per centum of the estimated cost of such drainage. 41 V. c. 9, s. 9. Issuing debentures.

10. The Lieutenant-Governor in Council may from time to time, in his discretion, invest any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any one time the sum of \$200,000, in the purchase of any debentures issued under Purchase of debentures out of Cons. Rev. Fund.

by-laws deposited as aforesaid, in respect of which the Commissioner of Agriculture shall have certified to the propriety of investment. 41 V. c. 9, s. 10; 42 V. c. 8, s. 2.

Debentures
made un-
questionable.

11. After such investment has been made, the debentures shall not be questioned and shall be deemed to be valid to all intents and purposes. 41 V. c. 9, s. 11; 42 V. c. 8, s. 3.

How and to
whom loans to
be made.

12. The Council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage for the same term of twenty years, in sums of one or more hundreds of dollars (no fractional part of \$100 to be loaned), and to persons who are assessed as owners as aforesaid; but no part of the money so borrowed shall be loaned to any member of the Council, but a person having so borrowed any sum or sums from any Municipality shall not thereby and by reason thereof be disqualified from being afterwards elected a member of the Council of such Municipality. 41 V. c. 9, s. 12.

Non-disquali-
fication of
borrowers.

Limit of
amount to be
loaned.

13. The Council shall not loan to any person borrowing money under this Act a sum which shall require the levying of a greater annual rate for all purposes, exclusive of school rates, than three cents in the dollar upon the value of the lot or parcel of land proposed to be drained, in respect of which the money is borrowed, as ascertained by the last revised Assessment Roll of the Municipality, but in no case shall more than the sum of \$1,000 be loaned to one person. 41 V. c. 9, s. 13.

Order in
which loans
are to be
granted.

14. The Council shall consider the applications in the order they are made, and shall loan the money to the persons whose applications shall have been approved of in the same order. 41 V. c. 9, s. 14.

Inspector.

15. The Council borrowing money under this Act shall employ a competent person as Inspector of Drainage, whose services and expenses shall be charged ratably upon the works carried on under his inspection, and shall be paid by the Council out of the money borrowed. 41 V. c. 9, s. 15.

Inspector's
report.

16. The Inspector shall, on the completion of any drainage works under his charge, report to the Council the number of rods of drain constructed on each lot or parcel of land, the cost per rod, and such other particulars as may be required by the Council; the report shall be entered in a book to be provided by the Council for that purpose, and the money shall not be advanced by the Council until the report of the due completion of the work has been so made. 41 V. c. 9, s. 16.

No advance to
borrower till
report entered.

Special annual
rates.

17. The Council shall impose, by by-law (Form 7), levy and collect for the term of twenty years a special annual rate of seven dollars and thirty-six cents on each \$100 loaned over and above all other rates upon the land in respect of which

the money is loaned; and the rate shall be collected in the same manner as other special rates imposed under the provisions of *The Municipal Act*. 41 V. c. 9, s. 17; 50 V. c. 6, s. 2.

18. The owner of any lot or parcel of land in respect of which money had been borrowed for tile, stone or timber drainage under this Act, may at any time obtain the discharge of his indebtedness under this Act, by paying the Treasurer of the Municipality the amount borrowed, less the annual sinking fund levied and collected, with interest thereon at the rate of five per centum per annum; and upon such payment being made to the said Treasurer, he shall forthwith transmit the same to the Treasurer of Ontario, who shall apply the same on account of the payment of the debentures of the Municipality under this Act. 41 V. c. 9, s. 18.

Owner may discharge his indebtedness.

19. Every Municipal Council borrowing money under this Act shall, on or before the 15th day of January in each year, make a return to the Lieutenant-Governor in Council, for the purpose of being laid before the Legislative Assembly, shewing the amount of money expended in drainage, the number of rods of drainage constructed, the names of the persons borrowing and the property upon which the money has been loaned, the names of the persons whose applications have been refused, the reason in each case of such refusal, during the year next preceding the date of the return. 41 V. c. 9, s. 19.

Returns to Lieutenant-Governor in Council by Municipal Council.

20—(1) The amount payable in any year under such by-law or debentures, for principal and interest, shall be remitted by the Treasurer of the Municipality to the Treasurer of Ontario within one month after the same shall have become payable, together with interest at the rate of seven per centum per annum during the time of default in payment.

Treasurer of Municipality to remit to Treasurer of Ontario.

(2) In case of the continuance of such default, the Council of the Municipality shall, in the next ensuing year (or as the case may require), assess and levy on the whole ratable property within the Municipality in the same manner in which taxes are levied for the general purposes of the Municipality, a sufficient sum to enable the Treasurer, over and above the other valid debts of the corporation falling due within the year, to pay over to the Treasurer of Ontario the amount in arrear together with the interest thereon at the rate of seven per centum per annum, during the time of default in payment whether the same have been previously recovered from the parties or lands chargeable with the same or not.

On default, Council to collect as a tax.

(3) The amount so in arrear and interest at the rate of seven per cent. shall, except as hereinafter provided, be the first charge upon all the funds of the Municipality, for whatever purpose or under whatever by-law they may have been raised other than sinking fund; and no Treasurer or other officer of the Municipality shall, after default, pay any sum

Arrears made a first charge on funds of municipality.

whatsoever, except for the ordinary current disbursements and salaries of clerks and other employees of the Municipality, or debts due to the Government of Ontario having priority by virtue of any statute, out of any fund of the Municipality in his hands, until the sum in arrear and interest shall have been paid to the Treasurer of Ontario.

Penalty on officers paying out funds when default made.

(4) If any Municipal Treasurer or other officer shall pay any sum out of the funds of his Municipality, except as aforesaid, contrary to the provisions hereinbefore named, he shall be liable to the Treasurer of Ontario for every sum so paid as for money received by him for the Crown, and he shall in addition thereto incur a penalty of \$500 to be recovered with full costs by any person who will sue for the same in any of Her Majesty's Courts in this Province having jurisdiction, and in default of payment of the amount which the offender is condemned to pay to the Treasurer of Ontario within the period to be fixed by the Court, the offender shall be imprisoned in the common gaol of the county for the period of twelve months unless he sooner pay the amount which he has been condemned to pay and the costs.

Penalty on Mayor, etc., disregarding this Act.

(5) Any Mayor, Reeve or Councillor wilfully omitting to see the foregoing provisions carried into effect, shall also be personally and individually liable to the Treasurer of Ontario for the full amount so in arrear and interest, to be recovered with costs by the said Treasurer of Ontario, in an action as for money had and received for Her Majesty's behalf: Provided always that no assessment, levy or payment made under this section shall in any wise exonerate the persons or lands chargeable from liability to the Municipality. 41 V. c. 9, s. 20.

Affidavits before whom sworn.

21. Affidavits under this Act may be sworn before a Justice of the Peace, or Notary Public, or a Commissioner for taking affidavits in the High Court. 41 V. c. 9, s. 21; 48 V. c. 16, s. 1

SCHEDULE.

FORM 1.

(Section 3.)

FORM OF BY-LAW.

A By-law to raise the sum of \$ to aid in the construction of tile, stone or timber drains.

The Municipality of , pursuant to the provisions of *The Tile, Stone and Timber Drainage Act*, enacts as follows:

1. That the Reeve (or Mayor) of the said may from time to time, subject to the provisions of this by-law, borrow on the credit of the

corporation of the said Municipality such sums of money not exceeding in the whole \$, as may be decided by the said Council, and may in manner hereinafter provided, issue debentures of the said corporation in sums of \$100 each for the amount so borrowed; the said debentures to have coupons attached as provided in section 5 of the said Act.

2. That when the Council shall be of opinion that the application of any person or persons who may be assessed as owners of land in the said Municipality, to borrow money for the purpose of constructing tile, stone or timber drains should be granted in whole or in part, then the said Council may, by resolution, instruct the said Reeve (*or* Mayor) to issue debentures as aforesaid, and borrow such sum of money as does not exceed the amount applied for, and may loan the same to the said applicant on the completion of said drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the said money shall be borrowed, sufficient for the payment of the interest and sinking fund, as provided in the said Act.

41 V. c. 9, *Sched. A.*

FORM 2.

(Section 6.)

Affidavit of Reeve or other Head Officer.

County of } I, of the
 TO WIT: } of in the County of
 and Province of Ontario, (*Reeve*) of the of make
 oath and say :—

1st. I have not been served with any notice of intention to make application to quash a certain by-law passed on the day of
 A. D. 18 by the Municipal
 Council of the said of No.
 intituled (*give the title of by-law*), nor have I been served with any notice of intention to make application to quash any part of said by-law, nor with any notice to that or the like effect.

Sworn, etc.

41 V. c. 9, *Sched. B.*

FORM 3.

(Section 6.)

Affidavit of Clerk of Municipality.

County of } I, of of
 TO WIT: } in the County of
 and Province of Ontario, Clerk of the said of
 make oath and say :—

1. On the day of A. D. 18
 the Municipal Council of the said of
 passed a by-law in regard to the borrowing of money to be lent for the
 construction of drains, being No. and intituled (*state title
 of by-law*), a true copy of which by-law duly certified by me is now shewn
 to me and is marked "A."

2. A notice setting forth the object of the said by-law, and stating that any one intending to apply to have such by-law or any part thereof quashed must within twenty days after the first publication thereof serve a notice in writing upon the Reeve or other head officer of the Municipality, and upon the Clerk of the Municipality, of his intention to make application for that purpose to the High Court of Justice at Toronto, within two months from the final passing of the by-law, was published on (*insert here the dates of publication*), in the (*insert names of newspapers*), being the newspapers in which the Council did by resolution direct the publication thereof, in the Township of _____ copies of which newspapers containing the said notice are now shewn to me, marked "B."

3. I have not been served with any notice of intention to make application to quash the said by-law, nor with any notice of intention to make application to quash any part thereof nor with any notice to that or the like effect.

Sworn, &c.

41 V. c. 9, *Sched. C.*

FORM 4.

(*Section 8.*)

To the Municipal Council of

I, *A. B.* owner of (*if part state what part*), lot No. _____ in _____ Con-
 cession of the Township of _____ (*or as the case may be*) hereby
 apply for a loan of \$ _____ to assist in the construction of _____ rods
 of drains _____ proposed depth of drain _____ inches, proposed size
 of tile _____ inch (1).

(1.) *If the proposed drain is to be stone or timber for the words "size of tile" substitute the words "inside size of drain."*

(Signed) *A. B.*

41 V. c. 9, *Sched. D*; 42 V. c. 8, s. 6.

FORM 5.

(*Section 5.*)

\$100.

No.

Drainage Debenture of the _____ of _____
 The Corporation of the _____ of _____, in the County of _____
 hereby promises to pay to the Treasurer of the Province
 of Ontario or order at the Bank of _____ in the City of Toronto,
 the sum of \$100 of lawful money of Canada, and interest thereon at five
 per cent. in twenty equal annual instalments of \$7.36 each, the first of such
 instalments to be paid on the _____ day of _____ A. D., 18 _____,
 pursuant to By-law No. _____, intituled "A By-law to raise the sum of
 \$ _____, to aid in the construction of Tile, (Stone or Timber) drains."

A. B.,
Reeve.

{ Seal of Cor-
 poration. }

C. D.,
Treasurer.

COUPON for twentieth Annual Instalment of Drainage Debenture No. 1, issued under By-law No. of the of the \$7.36 payable at the Bank of in the City of Toronto on day of A.D. 18 .	COUPON for nineteenth Annual Instalment of Drainage Debenture No. 1, issued under By-law No. of the of the \$7.36 payable at the Bank of in the City of Toronto on day of A.D. 18 .
A. B., Recve.	C. D., Treasurer.
A. B., Recve.	C. D., Treasurer.

41 V. c. 9, *Sched. E.*; 50 V. c. 6, s. 2.

FORM 6.

(Section 2.)

NOTICE OF BY-LAW.

Take notice that a By-law for raising the sum of \$ for Drainage under the provisions of *The Tile, Stone, and Timber Drainage Act* will be taken into consideration by the Municipal Council of the of , on the day of , A.D. 18 ., at the hour of o'clock in the noon, at which time and place the members of the Council are hereby required to attend for the purpose aforesaid.

E. F.,
Clerk.

41 V. c. 9, *Sched. F.*

FORM 7.

(Section 17.)

BY-LAW IMPOSING A RATE.

By-law imposing a Special Drainage rate upon Lot
in the Concession.

Whereas *H. J.*, the owner of Lot in the Concession of this Township [or as the case may be], applied under the provisions of the *Act Respecting Tile, Stone and Timber Drainage Debentures*, for a loan to be made to him for the purpose of draining the said land: And whereas the Municipal Council has, upon his said application, loaned the said *H. J.*, the sum of \$1000 [or as the case may be], to be repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the said Municipal Council of the said , that an annual rate of \$80 per annum [or as the case may require, namely, \$7.36 for every \$100 loaned], is hereby imposed upon the said land for a period of twenty years, such rate to be levied and collected at the same time and manner as ordinary taxes are levied and collected.

41 V. c. 9, *Sched. G.*; 50 V. c. 6, s. 2.

5. AGRICULTURE AND ARTS,

CHAP. 39.—AGRICULTURE AND ARTS ACT, p. 398.

CHAPTER 39.

An Act for the Encouragement of Agriculture, Horticulture, Arts and Manufactures.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Agriculture and Arts Act.*" Short title.
49 V. c. 11, s. 1.

2. Where the words or expressions following occur in this Interpretation.
Act or in the Schedules thereto they shall be construed in the manner hereinafter mentioned unless a contrary intention appears.

1. "Department" shall mean the "Department of the
"Commissioner of Agriculture and Arts;" "Department."

2. "Commissioner" or "Commissioner of Agriculture" shall "Commis-
mean the "Commissioner of Agriculture and Arts;" sioner."

3. "Bureau" shall mean the "Bureau of Industries;" "Bureau."

4. "Council" or "Council of the Association" shall mean "Council."
"Council of the Agriculture and Arts Association;" and

5. "District" and "Electoral District" shall mean a Dis- "District";
trict as constituted for the purpose of representation in the "Electoral
Legislative Assembly, prior to the 30th day of March, 1885. District."
49 V. c. 11, s. 2.

3. The Agriculture and Arts Association, the Council of the Societies
Agriculture and Arts Association, the Fruit Growers' Associa- continued.
tion of Ontario, the Entomological Society of Ontario, the
Dairymen's Associations of Ontario, the Poultry Association
of Ontario, and all Agricultural and Horticultural Societies
heretofore recognized and existing in Ontario, shall continue,
except so far as they may be altered or affected by this Act.
49 V. c. 11, s. 3.

4. The Commissioner of Agriculture may decide all matters Commissioner
of doubt or dispute as to the working or construction of this may appoint
Act, and his decision shall be final, except that an appeal there- persons to in-
from may be made to the Lieutenant-Governor in Council. spect disputes.
49 V. c. 11, s. 4.

5. The Commissioner may appoint any person to inspect Commissioner
the books and accounts of any Society or body in the may appoint
Province receiving Government aid, and being in any way persons to in-
in connection with the Department, and may empower such per- spect accounts
son to summon witnesses and enforce the production of docu- of Societies,
ments before him, and to take evidence upon oath in regard etc.
to the inspection; and all officers of such Society or body, when-
ever required so to do, shall submit the books and accounts
thereof to such inspection and truly to the best of their know-
ledge answer all questions put to them in relation thereto,
or to the funds of such Society or body. 49 V. c. 11, s. 5.

BUREAU OF INDUSTRIES.

Bureau to be under direction of Commissioner of Agriculture.

6. There shall be attached to the Department of the Commissioner of Agriculture a Bureau, to be styled "The Bureau of Industries," for collecting, tabulating and publishing industrial information for public purposes, and the Commissioner shall be charged with the direction thereof. 49 V. c. 11, s. 6.

Useful facts relating to agriculture, etc., to be collected and published.

7. It shall be the duty of the Commissioner to institute inquiries and collect useful facts relating to the agricultural and other industrial interests of the Province, and to adopt measures for disseminating or publishing the same in such manner and form as he finds best adapted to promote improvement within the Province; and (amongst other things) to procure and publish early information relating to the supply of grain, breadstuffs and live stock in the other Provinces of the Dominion, in Great Britain, and in the United States and other foreign countries in which the Province finds a market for its surplus products, and as to the demand therefor; and the Commissioner shall, on or before the first day of May in every year, cause to be published and distributed for the use of the members of the Legislature, the general report and the tabular abstract for the preceding year, made by the Secretary to the Commissioner, as provided by section 9 of this Act. 49 V. c. 11, s. 7.

Appointment of Secretary and other officers.

8. The Lieutenant-Governor may appoint a Secretary of the Bureau, and may also appoint such other officers as may be necessary for the proper conduct of the Bureau. 49 V. c. 11, s. 8.

Duties of Secretary.

9. It shall be the duty of the Secretary, under the instructions of the Commissioner, to conduct all correspondence of the Bureau; to send to the proper officers and persons of whom such service is required the schedules, with instructions approved by the Commissioner, for the collection of facts and information relating to Agriculture and other industries of the Province; to receive, abstract and tabulate the information collected and obtained, and to publish the same from time to time during the growing season; to prepare at the close of every year a general report to the Commissioner, including a tabular abstract of facts relating to land, trade, government, population, and other subjects compiled annually from the departmental records of the Province and from other available records; and generally to perform all work within the sphere of the Bureau as he may from time to time be directed by the Commissioner. 49 V. c. 11, s. 9.

Officers of certain societies and others to answer all official communications.

10. The officers of all societies and associations organized under this Act, and of all municipal councils, school boards and public institutions, and all public officers of this Province, shall promptly answer all official communications from the Bureau, shall from time to time collect and tabulate facts according to instructions to be

furnished them, shall make diligent efforts to supply correct information on all questions submitted to them, and generally shall act as far as practicable upon the recommendations of the Commissioner; and any officer of any society, association, council, school board or public institution making a false return of information, or refusing or wilfully neglecting to answer any question, or to fill up, tabulate and return official schedules according to instructions and within the prescribed times, or to furnish information relating to the industries of the Province, when required so to do either by the Commissioner or by the Secretary of the Bureau, shall for every offence incur a penalty of \$40, which shall be recoverable by any person suing for the same before any Court of competent jurisdiction, and shall be paid to Her Majesty for the use of this Province. 49 V. c. 11, s. 10.

11. The Commissioner of Agriculture, with the approval of the Lieutenant-Governor in Council, may make such arrangements as he deems expedient with the Government of the Dominion for the collection and transmission of information on the agricultural, manufacturing and other interests of the Province, or for obtaining for the use of the Province such information as may have been collected by the Department of the Minister of Agriculture. 49 V. c. 11, s. 11.

12. All collectors and officers employed in collecting data for the Bureau of Industries shall be entitled to receive one copy each of the publications and reports of the Bureau. 49 V. c. 11, s. 12.

Arrangements with Government of Dominion.

Officers, etc., entitled to copy of reports.

THE AGRICULTURE AND ARTS ASSOCIATION.

13.—(1) The members of the Council of the Agriculture and Arts Association, both elected and *ex officio*, the ex-Presidents of the Association, the President and first Vice-President of Electoral District Societies, of the Fruit Growers' Association, of the Entomological Society, of the Dairymen's Associations, of the Poultry Association, of the Bee-keepers' Association, and the Ontario Creameries Association, or any two members appointed to act instead of the President and Vice-President of any one of the foregoing societies, the Professors of the Ontario Agricultural College, life members, and all subscribers of \$1 annually (which shall entitle such subscribers to membership only for the year for which their subscription is paid), shall constitute the Agriculture and Arts Association; and the officers of the Council shall be the officers of the Association.

Who shall be members of the Association.

(2) The payment of \$10 shall constitute a life membership of the Association, when given for that special object, and not as a contribution to any local fund; and those persons who have heretofore been made life members under by-laws of the Association shall continue to be life members of the same.

(3) The annual meeting of the Association shall be held at a time and place to be appointed by the Council, at which all matters of interest to the Association may be considered, and reports or recommendations may be made to the Council thereon. 49 V. c. 11, s. 13.

Contracts to be made with Council.

14. Contracts and legal proceedings by, with, or concerning the Association, shall be made and had with the Council in its corporate capacity; and no other contract or legal proceeding shall bind or affect the Association. 49 V. c. 11, s. 14.

Funds of Association to be deposited in a chartered bank.

15. The funds of the Association, except moneys paid out during the time of holding or within one week after the close of the annual Provincial Fair or Exhibition, shall be deposited to the credit of the Association, in a chartered bank of the Dominion of Canada, to be selected by the Council of the Association; and payments made thereout shall be by cheques drawn on such bank by the Treasurer of the Association and countersigned by the Secretary thereof. 49 V. c. 11, s. 15.

Expenditure of money.

16. No resolution, by-law, or other proceeding of the Council involving an expenditure of money to an amount exceeding \$40 shall be passed or taken except with the assent of a majority of the members thereof, or upon the recommendation of an executive committee of not less than three members, who shall be appointed in accordance with a by-law of the Association. 49 V. c. 11, s. 16.

Liabilities of Association to be paid by 31st Dec.

17. All liabilities of the Association shall, except in cases of reasonable dispute regarding the same, be paid on or before the 31st day of December of the year in which the same were incurred; and when a payment is made through the post it shall be by cheque, payable at par by the bankers of the Association, at any of their offices in Canada. 49 V. c. 11, s. 17.

Appointment and report of auditors.

18. On or before the 15th day of December in each year, two Auditors shall be appointed, one by the Commissioner of Agriculture and the other by the Council of the Association, whose duty it shall be to examine the accounts of all moneys received and expended by the Treasurer of the Association, and to examine into the assets and liabilities of the Association, and, on or before the 15th day of January ensuing, to report as to the accounts, receipts, expenditures, assets and liabilities to the Secretary of the Association; and the Council shall pay the Auditors a reasonable remuneration for their services. 49 V. c. 11, s. 18.

THE COUNCIL OF THE ASSOCIATION.

Council of the Association.

19. The Council of the Agriculture and Arts Association shall be composed of thirteen members, elected as hereinafter provided. 49 V. c. 11, s. 19.

20. Ontario shall be divided into thirteen Agricultural Divisions, designated by numbers, and comprising the Electoral Districts enumerated in Schedule A annexed to this Act; and each Division shall be represented by one member in the Council of the Association. 49 V. c. 11, s. 20.

21.—(1) Four (or five, as the case may be) members of the Council shall retire annually, in the order in which the members have been elected for the respective Divisions, each seat being vacated every third year; and the Secretary of the Association shall send a list of the names of the retiring members to the Secretary of every Electoral District Society on or before the 1st day of September in every year.

(2) The retiring members (who are eligible for re-election) may continue to exercise all their functions until their successors have been duly elected. 49 V. c. 11, s. 21.

22. The nomination of a candidate or candidates to represent an Agricultural Division in the Council shall be made in writing by ten or more members of some Electoral District Society in such Division, and forwarded to the Commissioner of Agriculture on or before the 15th day of December preceding the election; and the Commissioner shall, on or before the 26th day of December next ensuing, mail to the Secretaries of the several District Societies in such Division the names of all persons so nominated. 49 V. c. 11, s. 22.

23.—(1) The members of the District Societies in each Division shall, at their several annual meetings provided by section 39 of this Act, elect from the persons nominated therefor one to represent their Division in the Council, each District Society having one vote, and the person receiving the largest number of votes of such District Societies shall be the member of the Council to represent the Division.

(2) In case the vote for such member results in a tie, then the District Society amongst those Societies voting for one or other of the persons in respect of whom the tie occurs which has the largest number of members, as appears by the report for the last calendar year, shall have the casting vote.

(3) Vacancies in the Council through death, resignation, or otherwise, shall be filled by the Commissioner. 49 V. c. 11, s. 23.

24.—(1) The first meeting of the Council, after the election of members in every year, shall be called by the Secretary some time during the month of February or of March; and at such meeting the members present shall elect from among themselves a President and Vice-President.

(2) The Council shall also appoint a Secretary and a Treasurer (neither of whom shall be members thereof), and may pay them reasonable salaries for their services.

Regular meetings of the Council.

(3) The regular meetings of the Council shall be held pursuant to adjournment, or be called by the Secretary at the instance of the President, or in his absence of the Vice-President, or upon the written request of any three members; and at least seven days' notice of the meetings shall be given to each member.

Chairman *pro tem.* and quorum.

(4) In the absence of the President or Vice-President from any meeting, the Council may appoint a chairman *pro tempore*, and seven members shall be a quorum. 49 V. c. 11, s. 24.

Allowance to members of Council.

25. The Council may grant to the members thereof an allowance not exceeding \$4 per day for the days on which they are actually in attendance at the meetings of the Council, and an allowance not exceeding four cents a mile for the distance necessarily travelled by the members in going to and returning from the meetings. 49 V. c. 11, s. 25.

POWERS AND DUTIES OF THE COUNCIL.

Council to be a body corporate.

26. The Council shall continue to be a body corporate, and may acquire and hold land and personal property for the purposes of the Association, and may sell, mortgage, lease, or otherwise dispose of the same; and all property, real or personal, heretofore vested in or held by the Agriculture and Arts Association shall continue to be vested in the Association, and under the control of the Council thereof. 49 V. c. 11, s. 26.

Powers of the Council.

27. The Council shall have full power to act for and on behalf of the Association; and all grants of money, subscriptions or other funds made or appropriated to or for the use of the Association (except money collected by or granted to any local committee for any special objects), shall be received by and expended under the direction of the Council. 49 V. c. 11, s. 27.

Duties of the Council.

28. It shall be the duty of the Council to take measures for the promotion of Agriculture and the useful Arts in the Province in any or all of the following ways, namely:

1. By holding agricultural meetings and shows of stock, implements, farm and horticultural products, machinery, manufactures and other works of art, either by themselves or under joint management with other Associations, whether the other Associations are incorporated under this Act or otherwise.

2. By aiding exhibition associations in accomplishing the same objects, by the granting of medals, prizes or other awards of merit.

3. By offering prizes for the best-managed farms, farm buildings, dairies, gardens, orchards, or vineyards.

4. By holding or aiding ploughing matches, and by the testing of agricultural implements and machinery.

5. By encouraging the planting of trees and the study of forestry.

6. By introducing and testing new varieties of grain, seeds, vegetables, or other agricultural productions.

7. By introducing or aiding in the introduction of new and improved breeds of animals, either from other countries or provinces, or from one part of the Province into another.

8. By offering premiums for reports on the breeding, rearing and feeding of animals, the management of the dairy, the production of wool, the improvement of agriculture and agricultural machinery and implements, the growth of timber, the adaptability of particular localities for particular branches of agriculture, the erection of farm buildings, fencing, draining, and other subjects relating to agriculture or the useful arts.

9. By causing, or aiding in causing, lectures to be delivered on such subjects and at such places as may be deemed in the interest of agriculture.

10. By keeping registers of pure bred stock, either by themselves or conjointly with other Associations, or bodies corporate.

11. And generally by adopting every means in their power to promote improvement in agriculture and the useful arts in the Province. 49 V. c. 11, s. 28.

29. The Council shall keep a record of their transactions, and may from time to time publish, in such manner and form as to secure the widest circulation among the Agricultural Societies, and among farmers generally, all such reports, essays, lectures, and other useful information as the Council may procure and adjudge suitable for publication. 49 V. c. 11, s. 29.

Records of transactions, essays, etc.

30. On or before the 1st day of February in every year the Council shall transmit to the Department a report for the preceding calendar year, wherein shall be embraced a record of their transactions, a detailed financial statement verified by the Auditors, a list of all persons to whom prizes have been awarded, either for exhibits at the Provincial Fair or for other objects, such information as they have obtained of progress made during the year in the several departments of the Fair as compared with previous years, and generally such means as have been used and measures taken by the Council under section 28 of this Act to promote improvement in agriculture and the useful arts. 49 V. c. 11, s. 30.

Annual Report.

31. The corporation of a city or town may enter into an agreement with the Council, binding such corporation to erect buildings necessary for holding the annual exhibition of the Association; and in consideration thereof the Council may select such corporation as the one within whose territorial limits their exhibition shall be held; but in the event of such corporation failing to enter into a binding agreement as aforesaid on or before the first day of May in the year for holding

Agreements with corporations of cities and towns as to erecting exhibition buildings.

such exhibition, the Council may change the place for holding the same, or may dispense with an exhibition for that year. 49 V. c. 11, s. 31.

Estimates to be submitted to Lieutenant-Governor in Council.

32. The Council shall, on or before the 15th day of December in each year, submit for the approval of the Lieutenant-Governor in Council an estimate of the sums required for the purposes of the Association for the ensuing year, giving in detail in such estimate as far as possible the particular object or objects to which the money is to be applied and the amount required for each. 49 V. c. 11, s. 32.

To fix the date of exhibition.

33. The Council shall, on or before the first day of October in each year fix the date at which the next annual exhibition shall be held. 49 V. c. 11, s. 33.

THE VETERINARY COLLEGE.

Veterinary College.

34.—(1) The Council may establish a Veterinary College for the instruction of pupils, by competent and approved teachers, in the science and practice of the veterinary art, and may pass by-laws and adopt measures for the examination of pupils in Anatomy, Physiology, Materia Medica, Therapeutics, Chemistry, and as to the breeding of domesticated animals; and, upon proof, to the satisfaction of the Council, that such pupils possess the requisite qualifications, may grant diplomas certifying that they are competent to practise as Veterinary Surgeons.

Veterinary practitioners.

(2) Veterinary practitioners holding such diplomas shall be entitled to professional fees in attending any Court of Law as witnesses in such cases as relate to the profession; and no person who does not possess a diploma or proper certificate from some duly authorized Veterinary College, within or without this Province, shall append to his name the term Veterinary Surgeon, or an abbreviation thereof.

Penalty for wrongfully assuming title of Veterinary Surgeon.

(3) Any person who wilfully and falsely pretends to be, or who wilfully and falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead people to infer that he is, or is recognized by law as, a Veterinary Surgeon, within the meaning of the foregoing sub-sections of this section, or that he possesses a diploma or proper certificate from some duly authorized Veterinary College within or without the Province, shall, upon summary conviction before a Justice of the Peace, pay a penalty not exceeding \$100, and not less than \$25.

Prosecutions.

(4) All prosecutions under this section may be brought and heard before and by any Justice of the Peace having jurisdiction in the locality where the offence is alleged to have been committed, and the Justice shall have power to award payment of costs in addition to the penalty; and, in case the penalty and costs awarded by him are not upon conviction forthwith paid, to commit the offender to the common gaol, there to be imprisoned for any term not exceeding three months, unless the penalty and costs are sooner paid.

(5) All penalties recovered under this section shall be paid to the convicting Justice, and be paid by him to the Treasurer of the Agriculture and Arts Association, and shall thereupon form part of the funds of the said Association, and be accounted for as such. Application of penalties.

(6) Any person convicted under this section who gives notice of appeal against the decision of the convicting Justice shall, before being released from custody, give to the said Justice satisfactory security for the amount of the penalty and costs of conviction and appeal. Security to be given on appeals.

(7) The Council or any person may be prosecutor or complainant under this section, and every prosecution thereunder shall be commenced within one year from the date of the alleged offence. 49 V. c. 11, s. 34. Any person may prosecute within one year.

ELECTORAL DISTRICT AGRICULTURAL SOCIETIES.

35.—(1) An Agricultural Society may be organized (unless this has been already done) in each of the Electoral Districts of the Province as constituted for the purpose of representation in the Legislative Assembly prior to the 30th day of March, 1885, and set forth in Schedule B to this Act. Society may be organized in each Electoral District.

(2) Nothing in this section contained shall prevent the Municipalities forming the Electoral Districts of South, Centre and North Bruce, Algoma East and West, and of Muskoka and Parry Sound, as now constituted, from forming new Electoral District Societies. 48 V. c. 2, s. 14; 50 V. c. 7, s. 29.

(3) In any District in which an Agricultural Society may be organized as aforesaid, such society may be organized whenever eighty persons have become members thereof by signing a declaration in the form of Schedule C to this Act annexed, and paying each not less than \$1 to the funds of the Society for that year, and a true copy of the said declaration shall, within one month after the money has been so paid, be transmitted to the Commissioner of Agriculture, who shall appoint and authorize a person to call the first meeting for the formation of the Society for the third Wednesday of January next ensuing (of which at least two weeks' notice shall be given by advertisement in a newspaper published in the county or district, and by placard), at which meeting the election of officers, and the election of a representative as provided by section 23 if one is to be elected for that year, shall take place; and upon the receipt of a report of the meeting by the Department, the Society so organized shall be deemed the Electoral District Society, and shall be entitled to receive the Government grant hereinafter provided.

(4) All subsequent annual meetings shall be called and held as provided in section 39 of this Act; and all persons paying each the sum of \$1 (or such other sum, not being more than \$2, as the Directors may by by-law fix) annually to the funds of the Society shall be members thereof. 49 V. c. 11, s. 35.

District
Societies to be
bodies cor-
porate.

36.—(1) The several District Societies organized at the time of the passing of this Act, or which may hereafter be organized, shall be bodies corporate, with power, to acquire and hold land as a site for fairs and exhibitions or for a school farm, and, subject to the approval of a meeting of the Society called for the purpose, to sell, mortgage, lease, or otherwise dispose of the same, or any other property held by such Societies.

(2) At least one week's previous notice of such meeting shall be given by advertisement in a newspaper published in the county or District and by placard; and at such meeting only members of at least two years' standing shall be allowed to vote. 49 V. c. 11, s. 36.

Objects of
Societies.

37.—(1) The objects of the said Societies, and of the Township Societies in connection therewith, shall be to encourage improvement in Agriculture, Horticulture, Manufactures, and the useful Arts:

- (a) By holding meetings for discussion and for hearing lectures on subjects connected with the theory and practice of improved husbandry or other industrial processes;
- (b) By promoting the circulation of agricultural, horticultural and mechanical periodicals;
- (c) By importing and otherwise procuring seeds, plants and animals of new and valuable kinds;
- (d) By offering prizes for essays on questions of scientific inquiry relating to Agriculture, Horticulture, Manufactures, and the useful Arts;
- (e) By awarding premiums for excellence in the raising or introduction of stock, the invention or improvement of agricultural or horticultural implements and machinery, the production of grain and of all kinds of vegetables, plants, flowers and fruits, and generally for excellence in any agricultural or horticultural production or operation, article of manufacture or work of art.

Horticultural
societies.

(2) The objects of Horticultural Societies shall be the same as those of District and Township Agricultural Societies, but in relation to Horticulture and Arts only. 49 V. c. 11, s. 37.

Application of
funds.

38. The funds of the Societies, howsoever derived, shall not be expended for objects inconsistent with those above mentioned. 49 V. c. 11, s. 38.

Annual
meeting.

39. The annual meeting of every District Society shall be held on the third Wednesday of January in each year, in a county at one o'clock in the afternoon, and in a city at seven o'clock in the afternoon; and at least two weeks' previous notice of such meeting shall be given by advertisement in a newspaper published in the county or District, and by placard. 49 V. c. 11, s. 39.

40. The Society shall at such meeting elect a President, two Vice-Presidents, and not more than nine other Directors, and the officers so elected shall appoint from amongst themselves, or otherwise, a Secretary and a Treasurer (or a Secretary-Treasurer), and the Society shall also elect two Auditors; and a majority of the Board of Directors so elected shall be resident in the District. 49 V. c. 11, s. 40.

Election of officers.

41.—(1) The officers of the Society shall present at such meeting a report of their proceedings for the past calendar year, in which shall be stated the names of all the members of the Society, the amount paid by each being set opposite to his name, the amount awarded in prizes to each kind of live stock, agricultural products, implements, domestic products or other objects respectively, together with such remarks and suggestions upon the agriculture and horticulture of the District, and the arts and manufactures therein, as they are enabled to offer.

Annual report.

(2) There shall also be presented a detailed statement of the receipts and disbursements of the Society during the past calendar year, and also an analyzed statement in which shall be shewn the expenses of management under separate and distinct heads. 49 V. c. 11, s. 41.

Annual accounts.

42. The report and statement, if approved of by the meeting, shall be entered in the Society's journal, to be kept for the purpose, and signed by the President or Vice-President as being a correct entry; and a true copy of the report, an abstract of the analyzed statement, a list of the officers of the Society elected for the ensuing year with the post-office address of each, and the name of the candidate chosen to represent the Division in the Council if one is to be elected for that year, duly certified by the President or Secretary for the time being, together with the reports of all Township and Horticultural Societies in the District, shall be sent to the Department on or before the first day of February next following. 49 V. c. 11, s. 42.

Entry of report.

Copy of District, Township and Horticultural Societies report to be sent to Department.

43.—(1) The first meeting of the officers of a Society may be held upon the day of the annual meeting, and the subsequent meetings shall be held pursuant to adjournment, or be called by written notice given by authority of the President, or in his absence of the senior Vice-President, or in the absence or on the neglect of the President or Vice-President, then on the written request of any three of the directors, at least one week before the day appointed, and at any meeting five shall be a quorum.

Meetings, etc.

(2) At any meeting called by written notice (in which notice the object of the meeting shall be specified), the officers may make, alter and repeal by-laws and rules for the regulation of the Society and the carrying out of its objects. 49 V. c. 11, s. 43.

Officers may make by-laws, etc.

Division of
Electoral
Districts.

44. When a District is divided into two or more Electoral Districts, it shall be necessary to organize a new Agricultural Society for each; and any property that may have been held by the Agricultural Society representing the District prior to the division, or the value thereof, shall be equitably apportioned or divided by three arbitrators, or a majority of them, one to be appointed by the officers of the Society in each new Electoral District, and another arbitrator to be chosen by the arbitrators so appointed, or, in the event of the arbitrators failing to choose a third arbitrator within ten days after being appointed, then the Senior County Judge having jurisdiction in the District shall appoint the third arbitrator; and in cases where new Electoral Districts have been formed for the purpose of representation in the Legislative Assembly by townships taken from two or more Districts, then any property, real or personal, which originally belonged to the District Societies of such Districts before the said townships were taken therefrom shall in like manner be equitably apportioned between the new Electoral District Society and each of the original Societies of the Districts out of which the new District has been formed. 49 V. c. 11, s. 44.

New Electoral
Districts.

Act to apply
to Electoral
Districts to
be hereafter
formed.

45. The provisions of the sections of this Act applying to Agricultural Societies, with regard to grants and Electoral Districts, conditions of grants, etc., shall extend to new Electoral Districts to be hereafter formed in Ontario. 49 V. c. 11, s. 45.

TOWNSHIP AND HORTICULTURAL SOCIETIES.

Formation of
Township and
Horticultural
Societies.

46. Fifty or more persons when the number of ratepayers on the last revised assessment roll is two hundred or over, and thirty or more when the number of ratepayers is less than two hundred, may organize themselves into an Agricultural Society in any township, and into a Horticultural Society in any city, town or incorporated village, by signing a declaration in the form of Schedule C annexed to this Act, and paying each not less than \$1 to the funds of the Society for that year; and all persons thereafter paying each the sum of \$1 (or such other sum, not being more than \$2, as the Society may by by-law fix) annually to the funds of the Society, shall be members thereof. 49 V. c. 11, s. 46.

Declaration.

47.—(1) The declaration shall be written and signed on the first page or pages of a book to be kept by the Society for recording the minutes of its proceedings during the first year of its existence, and a copy thereof certified by the President and Secretary shall within one week of the first meeting of the Society be transmitted to the Secretary of the District Society with which such Society is connected; and every

Township and Horticultural Society shall be legally known and designated by the name of the municipality in which it exists, and there shall not be more than one Society in any such municipality. Name of Society.

(2) Two or more adjoining townships may unite to form a Township Agricultural Society; and two or more adjacent cities, towns or incorporated villages may unite to form a Horticultural Society; and the Society shall be known by the name of the union of townships or of towns. 49 V. c. 11, s. 47. Union Societies.

48. The first meeting of a Township or Horticultural Society shall be called by the head of the municipality (or, in case of a union of municipalities, by the heads of said municipalities), at which meeting the election of officers mentioned in section 51 shall take place; and the Society so organized shall be entitled to share in the Government grant as hereinafter provided. 49 V. c. 11, s. 48. First meeting.

49. Meetings of the officers of a Township or Horticultural Society shall be called and held as provided in section 43 of this Act for meetings of the officers of a District Society; and at such meetings they may make, alter, or repeal by-laws and rules, not being contrary to this Act or to the laws of the Province, fixing the fee for members and prescribing the mode for the election of officers, and otherwise for regulating and administering the affairs and property of the Society and for carrying out its objects. 49 V. c. 11, s. 49. Meetings of officers. By-laws.

50.—(1) Any Township or Horticultural Society, organized as provided in sections 46, 47 and 48, may at any regular meeting adopt a resolution that the Society is desirous of being incorporated; and upon filing with the Department of Agriculture the resolution, and a certificate of the Secretary of the District Society with which the Society is connected that it is the recognized Society of the municipality which it professes to represent, such Society shall thenceforth be and become a body corporate, and may acquire and hold, lease, mortgage and alienate property, real and personal, but only for the purposes of the Society and subject to the provisions of section 55 of this Act; and it shall be the duty of the Secretary of the District Society to sign the certificate above referred to whenever requested to do so. Incorporation of Societies.

(2) Every Township and Horticultural Society incorporated previous to the passing of this Act shall be deemed as duly incorporated. 49 V. c. 11, s. 50.

51. The said Societies shall hold their annual meetings on the second Thursday in January of each year, and shall each elect a President, a Vice-President, and not less than three, nor more than nine other Directors; and the officers so elected shall Annual meeting. Election of officers.

appoint from amongst themselves or otherwise, a Secretary and a Treasurer (or a Secretary-Treasurer), and the said Societies shall also elect two Auditors. 49 V. c. 11, s. 51.

Annual
report.

52. The said officers shall prepare and present at the annual meeting of the Society a report of their proceedings for the last calendar year, in the same manner as hereinbefore directed for District Societies, and containing information under the same heads (but, in the case of Horticultural Societies, with reference to Horticulture and Arts only), and a true copy thereof, certified by the President or Vice-President, shall be transmitted to the Secretary of the District Society with which such Society is connected in time for the annual meeting thereof in January. 49 V. c. 11, s. 52.

Report where
township is
divided.

53.—(1) In cases where part of a township is in one Electoral District and part in another, the Township Society shall transmit a copy of its annual report to the Secretary of each District Society, as provided for in the preceding section; and the Township Society shall also send to the respective Treasurers of the said District Societies a list of the subscriptions of its members, attested as in other cases provided for by section 58 of this Act; and, based on such returns, shall receive from each of the District Societies its share of all legislative and other public grants, but in the proportion of fifty per cent. only of such returns, as compared with the returns of other townships in the respective Districts.

Report of
union Society.

(2) In the case of a union of townships to form one Township Society, or of any adjacent cities, towns or villages to form a Horticultural Society, where one is in one District, and the other in another District, then the Union Society shall report to and do and be dealt with in all respects in the same manner as is herein provided for in the case of a township partly situated in one and partly in another District. 49 V. c. 11, s. 53.

Dissolution of
union town-
ship Societies.

54. Where two or more municipalities have united to form a Township or a Horticultural Society, a majority of the members of the Society residing in any one of the municipalities comprising the Union may, by writing signed by such majority and addressed to the officers of the united Society, express their desire to separate, and may thereupon organize a new Society for such municipality in the manner provided by sections 46 and 47, and the former united Society shall thereupon become dissolved and cease to exist; and the assets of the Union Society shall be divided in the manner provided by section 44 in regard to the assets of separating Electoral District Societies. 49 V. c. 11, s. 54.

How assets
divided.

Power to
sell lands.

55. Any Township or Horticultural Society holding land or buildings for the purpose of Agricultural Fairs or Exhibi-

tions may, subject to the approval of a meeting of the Society called for the purpose (at which meeting only members of at least two years' standing shall be allowed to vote), sell, mortgage, lease, or otherwise dispose of the same. 49 V. c. 11, s. 55.

56. Any Township Society and Town or Village Municipality that had, prior to the 4th day of March, 1868, jointly purchased and held any lands or buildings for the purpose of Agricultural Fairs or Exhibitions, may continue jointly to hold such lands or buildings, or may sell, mortgage, lease or otherwise dispose of the same, subject to the approval of a meeting of the Society as provided in the preceding section. 49 V. c. s. 11, s. 56.

Powers as to lands.

LEGISLATIVE GRANTS.

57.—(1) An Electoral District Society, so long as the number of its *bona fide* members is not less than eighty, having forwarded to the Commissioner a copy of its report and statements for the year then last past, as required by section 42, and transmitting to the Commissioner on or before the 1st day of September in each year an affidavit (which may be in the form of Schedule D annexed to this Act, and may be sworn to before any Justice of the Peace), stating the amount subscribed for that year and paid to the Treasurer of the District Society by the members thereof, together with the amounts returned to the Treasurer of the District Society by the several Horticultural and Township Agricultural Societies of the said District, as provided in section 58 of this Act, shall be entitled (subject to the limitations hereinafter mentioned) to receive a sum, to be paid out of any unappropriated moneys in the hands of the Treasurer of the Province, equal to three times the whole amount certified by the said affidavit of the Treasurer of the Electoral District Society; but the whole amount to any District Society shall not exceed \$700 in any year, and no grant shall be made unless the amount so certified by the affidavit of the Treasurer is \$130 or upwards.

Grants to District Societies, and conditions thereof.

Proviso.

(2) The City of Toronto (which for the purposes of this Act is constituted one Electoral District) shall not receive more than \$550 in any year; and the Districts of the City of Kingston, the City of Hamilton, the City of London, the City of Ottawa, the Town and Township of Cornwall, and the Town and Township of Niagara shall not receive more than \$350 respectively, in any year. 49 V. c. 11, s. 57.

Proviso.

58.—(1) Every Township or Horticultural Society connected with a District Society, having made a report of its proceedings as required by section 52, and transmitted to the Treasurer of the District Society on or before the 1st day of August in each year a list of the members of the Society and the amount subscribed and paid by each for the year, attested

Share of grant to Township and Horticultural Societies and conditions thereof.

by an affidavit of its Treasurer (which affidavit may be in the form of Schedule E), and so long as the number of its *bona fide* members is not less than the number required for organization, shall be entitled to a share of the grant made to the District Society in proportion to the amount subscribed and paid by the members of other Township and Horticultural Societies of the District; and the Treasurer of the District Society shall pay over to the Township or Horticultural Society its share of the public grant as soon as the grant is received by him.

(2) The declaration mentioned in sections 46 and 47 of this Act shall be deemed a sufficient report in the first year in which a Township or Horticultural Society has been organized.

(3) No subscription by a member for a greater amount than \$2 shall be considered as a basis of division, or included in the affidavit made by the Treasurer. 49 V. c. 11, s. 58.

Division of
grant received
by District
Society.

59. Three-fifths of the grant received by an Electoral District Society shall be subject to division among the Township and Horticultural Societies connected therewith; but no Society shall thus receive more than three times the amount returned by it as subscribed and paid by its members, nor more than one-fifth of the entire grant to the District Society; and any balance of the three-fifths not appropriated under this distribution shall remain to the District Society. 49 V. c. 11, s. 59.

Special grants.

60. In the case of a Township Society in one of the outlying parts of the Province not connected with a District Society, or of a Township Society whose circumstances may be regarded as special, the necessary report and statement shall be transmitted to the Commissioner; but no grant shall be made to such Society unless the amount certified in the affidavit as subscribed and paid by members is \$30 or upwards, nor shall the grant exceed three times the amount of the local subscription. 49 V. c. 11, s. 60.

Rights of
members of
Township So-
cieties in Dis-
trict Society.

61. Nothing in this Act contained shall be construed as admitting any member of a Township Society, in virtue of his subscription thereto and without further subscription to the Electoral District Society, to any of the privileges of a member of the Electoral District Society, except where the Electoral District Exhibition is held within the limits of a township, as mentioned in section 64 of this Act. 49 V. c. 11, s. 61.

EXHIBITIONS.

Where Exhi-
bitions of Dis-
trict Society
held.

62.—(1) The exhibition of the Electoral District Society shall be held wherever the majority of the officers, or of a quorum thereof, think fit, giving due and public notice thereof.

within the limits of the District, or of any adjoining District or township with the Society of which they may unite their funds as hereinafter mentioned.

(2) Whenever the officers of a District or Township Society have by by-law or resolution fixed upon a place or places for holding the exhibition or exhibitions of the Society for any year or years, then the place or places for holding the exhibition or exhibitions shall not be changed except by the vote of a majority of the members of the Society of at least two years' standing, present at a special meeting called by the officers of the Society for the purpose of considering the proposed change; and at least two weeks' previous notice of the meeting shall be given by advertisement in a newspaper published in the county or District, and by placard.

(3) The meeting shall be at the hour of nine o'clock in the forenoon; and if a poll is demanded the same shall be opened at one o'clock in the afternoon and closed at six o'clock in the afternoon, after which time no votes shall be taken; and the presiding officer shall thereupon declare the result of the poll. 49 V. c. 11, s. 62.

63. Any two or more Electoral District Societies, or a District Society and any recognized Township or Horticultural Society or Societies, or any two or more such Township or Horticultural Societies, or the Society of a City Electoral District and any Township or Horticultural Society or Societies adjoining such City Electoral District, may, by agreement between the officers or a majority of the officers of each Society, unite their funds or any portion thereof for the erection of suitable buildings in which to exhibit articles of produce or manufacture, or works of art, and for annual or extra exhibitions, or for ploughing matches, or for any other purpose likely to promote Agriculture, Horticulture, Arts and Manufactures, and may acquire by purchase or lease, and hold, sufficient land for this purpose from time to time, and may, subject to the approval of a meeting of the Society called for the purpose, at which meeting only members of at least two years' standing shall be allowed to vote, sell, mortgage, lease or otherwise dispose of the same. 49 V. c. 11, s. 63.

64.—(1) The exhibitions of any Township Agricultural Society shall be held at such place as shall afford sufficient accommodation for such exhibitions; but no separate Township Agricultural Exhibition shall be held within five miles of the place at which the Electoral District Exhibition is held for any year in the same township; but a Township Agricultural Society may unite with a District Society, and may merge its funds with those of a District Society for that year, and if so merged the members of the Township Society shall be entitled to all the privileges of members of the District Society

Union of Dis-
trict and
Township
Societies.

Township
Societies
Exhibition.

at the exhibition, and the President, Vice-President and Directors of such Township Society shall be co-Directors with the Directors of the District Society for the conducting and management of such exhibitions.

(2) But where a Township Society unites with a District Society other than the District Society within the limits of which the township is situated, the Township Society shall only be entitled to share in the distribution of the three-fifths of the Government grant upon the amount of members subscriptions paid by members resident within the township, and the Secretary of the Township Society in his returns to the Treasurer shall distinguish the members so resident from other members. 49 V. c. 11, s. 64.

OTHER ASSOCIATIONS.

Fruit Growers
Association,
Entomological
Society,
Dairymen's
Associations,
etc.

65.—(1) The Associations now existing, and known as "The Fruit Growers' Association of Ontario," "The Entomological Society of Ontario," "The Dairymen's Association of Eastern Ontario," "The Dairymen's Association of Western Ontario," and "The Poultry Association of Ontario," shall each continue to be a body corporate, to comprise not less than fifty members, and may each make by-laws and regulations for the Association's guidance and proper management, not being contrary to the provisions of this Act or the general laws of the Province.

Bee-keepers'
and Cream-
eries Asso-
ciations.

(2) The Associations now existing, and known as "The Bee-keepers' Association of Ontario" and "The Ontario Creameries Association," are hereby declared to be bodies corporate, to comprise not less than fifty members each, and may each make by-laws and regulations for the Associations guidance and management, subject to the provisions of the preceding sub-section. 49 V. c. 11, s. 65.

Annual
grants.

66. Each of such Associations, so long as the number of its *bona fide* members is not less than fifty (each paying an annual subscription of not less than \$1), and so long as it complies with the provisions of this Act, shall be entitled to receive from unappropriated moneys in the hands of the Treasurer of the Province a specified sum to be placed in the estimates and voted by the Legislature for each year; provided that the Secretary of each of the said Associations shall, on or before the 1st day of September in every year, transmit to the Commissioner of Agriculture an affidavit, which may be sworn to before any Justice of the Peace, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions. 49 V. c. 11, s. 66.

Proviso.

Annual
meeting.

67.—(1) Each of such Associations shall hold an annual meeting at such time and place as may be determined upon; and each Association shall at such annual meeting elect a President

and a Vice-President, and shall also elect one Director from each of the Agricultural Divisions included in such Association's limits; and the officers and Directors so elected shall appoint from among themselves, or otherwise, a Secretary and a Treasurer (or a Secretary-Treasurer); and each Association shall elect two Auditors. The Dairymen's Associations of Eastern and Western Ontario may each elect two Vice-Presidents.

Election of officers.

(2) The officers shall have full power to act for and on behalf of the Association, and all grants of money and other funds of the Association shall be received and expended under their direction, subject, nevertheless, to the by-laws and regulations of the Association. 49 V. c. 11, s. 67.

Powers of officers.

68. At every annual meeting the retiring officers shall present a full report of their proceedings, and of the proceedings of the Association, and a detailed statement of its receipts and expenditure for the previous year, duly audited by the Auditors; and a copy of the report, a statement of receipts and expenditure, and a list of the officers elected, and also such general information on matters of special interest to each Association as such Association may have been able to obtain, shall be sent to the Commissioner within forty days after the holding of the annual meeting. 49 V. c. 11, s. 68.

Report to Commissioner.

69. The Dairymen's Association of Eastern Ontario, the Dairymen's Association of Western Ontario and the Poultry Association of Ontario shall each hold an annual exhibition, at such time and place as each of the said Associations shall at its annual meeting appoint, or may hold its exhibition in conjunction with any other Agricultural Association, whether such other Association is incorporated or organized under this Act or otherwise. 49 V. c. 11, s. 69.

Exhibitions Dairymen's and Poultry Associations.

GENERAL PROVISIONS.

70. All persons not under eighteen years of age who have paid the membership subscription for the year then next ensuing to any Society organized under this Act shall have the right of voting at the election of officers (including in the case of an Electoral District Society the election of a representative of an Agricultural Division in the Council of the Agriculture and Arts Association if one is to be chosen that year), and on all other questions submitted to the annual meetings of such Societies. 49 V. c. 11, s. 70.

Right of voting.

71. No membership subscriptions for the ensuing year paid after the President or presiding officer has declared the poll open for the election of officers shall entitle a member to vote for such officers, or shall render him eligible for election as an officer, nor, except in the case of the City and Town Electoral District and Horticultural Societies, shall any votes

Payment of subscriptions after poll opened not to entitle to vote.

be received earlier than one o'clock in the afternoon nor later than six o'clock in the afternoon of the same day. 49 V. c. 11, s. 71.

Vacancies.

72. Except as otherwise provided, a vacancy occurring by the death or resignation of any officer of any Agricultural or other Society organized under this Act may be filled by the remaining officers thereof; and it shall be the duty of such officers, and they are hereby empowered, to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if for any reason a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in the next section. 49 V. c. 11, s. 72.

Where election illegal and void.

73.—(1) In the event of an election of any officers of any Association, Council, Society or other body coming within the provisions of this Act not being held at the time or place herein directed, or being for any reason illegal and void, then the persons in office at the time when the election should have been legally held shall continue to be, and shall be deemed to be, the officers of the Association, Council, Society or body until their successors are legally appointed, and, in the event of such non-election, or illegal election, a special meeting of the members of the Association, Council, Society or other body shall be called as soon as practicable for the election of such officers; such meeting to be called (in the manner provided in section 39 in the case of the annual meeting of an Electoral District Society) by the President, or in his absence or on his neglect by the Vice-President, or in the absence or on the neglect of the President and Vice-President, then by any three members of the Association, Council, Society or other body; and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be and be deemed to be the officers of the Association, Council, Society or body.

Special meetings.

(2) A special meeting of the Directors of any Association, Council or Society organized under this Act may be called by the President thereof, or in his absence or on his neglect by the Vice-President, or in the absence or on the neglect of the President and Vice-President, then by any three members of such body, of which meeting at least seven days' notice shall be given to each member; and, except as otherwise provided for, a majority of the Directors of such body shall be a quorum. 49 V. c. 11, s. 73.

Majority of officers to be residents.

74. The majority of the officers of Electoral District and Township Agricultural Societies and of Horticultural Societies shall be residents of the Electoral District or municipality which such Society represents; but the membership of

such Society may extend to other Electoral Districts or municipalities. 49 V. c. 11, s. 74.

75. Every delegate from a Society to any Association or Council of an Association under this Act, whether he be such by virtue of his office or has been appointed thereto by special resolution, shall at the annual (or first) meeting of the Association or Council for that year furnish a certificate, signed by the President and Secretary and sealed with the seal of the Society he professes to represent, shewing that he has been duly appointed a delegate of such Society; and the certificate may be in the form of Schedule F to this Act annexed. 49 V. c. 11, s. 75.

Delegates to
furnish certi-
ficates.

76. The Lieutenant-Governor shall issue his warrant in favour of the Agricultural and other Societies entitled to grants under this Act to the amount of the whole appropriation required, as certified by the Commissioner of Agriculture; and the Commissioner shall cause to be paid over to the Electoral District and other Societies the public grants to which they are respectively entitled. 49 V. c. 11, s. 76.

Commissioner
to pay grants.

77. The Treasurer of every Electoral District Society or other Association organized under this Act before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties which may be in the form given in schedule G to this Act or otherwise, as the Board of Directors or other managing officers may deem necessary for the faithful performance of his duties, and especially for duly accounting for and paying over all moneys which may come into his hands; and it shall be the duty of every Board in each and every year to inquire into the sufficiency of the security given by the Treasurer and report thereon; and where the same Treasurer for a Society is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the Society for the faithful performance of his duties shall continue valid as against the parties thereto under such reappointment. 49 V. c. 11, s. 77.

Treasurer of
a society to
give security.

78. The Council or Board of Directors of any Association or Society organized under this Act, on being made aware of any fraud having been committed by any member or exhibitor in the entry of any stock or goods in competition for prizes at any Exhibition, shall have the power of withholding the payment of any prizes that may have been awarded by the judges to such members or exhibitors on such fraudulent or any other entries made at such Exhibition. 49 V. c. 11, s. 78.

Frauds at
Exhibitions.

79.—(1) An Electoral District or incorporated Township Society, or the Municipal Council of any County or Township in Ontario, may purchase and hold land for the purpose of

Society may
purchase land
for school
farm.

establishing a School Farm, to instruct pupils in the science and practice of agriculture; and such Society and any Municipal Council may purchase and hold such School Farm conjointly or otherwise, and may, conjointly or otherwise, make all necessary rules and regulations for the management thereof; and may sell, mortgage, lease or otherwise dispose of the same.

Proviso

(2) Not more than two hundred acres of land shall be so held by such Society or Council, whether conjointly or otherwise. 49 V. c. 11, s. 79.

Members of
two years'
standing.

80. A member of at least two years standing, where referred to in this Act, shall mean a member who has paid his membership subscription and has been entered as a member on the books of the Society for the two preceding years. 49 V. c. 11, s. 80.

MUNICIPAL AID TO AGRICULTURAL AND OTHER SOCIETIES.

Municipalities
may grant
land or money
in aid of pur-
poses of this
Act.

81.—(1) The municipal council of any city, town, village county or township in this Province may grant money or land in aid of the Agriculture and Arts Association, or of any duly organized Agricultural or Horticultural Society coming within the provisions of this Act, being within the limits of the municipality, or within any adjoining municipality; and any grants heretofore made shall be held to be and to have been legally made.

Agreements
between
municipalities
and other
societies for
the use of
buildings, etc.

(2) Any of the said municipalities owning lands or buildings for public purposes shall have power to make agreements on such terms and for such periods as they may deem expedient with any company now formed, or hereafter to be formed, under *The Act respecting Joint Stock Companies for the erection of Exhibition Buildings* or with any Agricultural or Horticultural Association, for the use of such lands or buildings, or either of them, or for the privilege of erecting thereon (subject to such terms as may be agreed on) such buildings as they may require for Agricultural or Industrial shows, and to give the companies the power of renting the grounds and buildings when owned by the company to any Agricultural or Horticultural Association formed under this Act, to and for the purposes of the annual show or shows of the Association, and to grant to the company or Association the power to collect during the show, or at other times, as may be agreed from any person wishing to go into or upon the grounds or buildings, or for any privileges thereon, or for any waggon, carriage or other vehicle, or for any horse or other animal which may be taken thereon, such entrance fee or other charge as the Company or Association may deem necessary or expedient. 49 V. c. 11, s. 81.

KEEPING THE PEACE AT EXHIBITIONS.

82. Any Justice of the Peace having jurisdiction in any City, Town, Village or Township, wherein a Fair or Exhibition may be held shall, on the request of the Council of the Agriculture and Arts Association, or of the President or Executive Committee of any Agricultural or Horticultural Society, appoint as many policemen or constables as may be required at the expense of the Association or of the Society, the said policemen or constables to be named by the Association or Society, whose duty it shall be to protect the property of the Association or Society within the Exhibition grounds, and to eject all persons who may be improperly within the grounds, or who may behave in a disorderly manner, or otherwise violate any of the rules or regulations of the Association or Society. 49 V. c. 11, s. 82.

Justices of the Peace may appoint policemen, etc.

83. If any person wilfully hinders or obstructs the officers or servants of the Agriculture and Arts Association or of any Agricultural or Horticultural Society in the execution of their duty, or gains admission to the said grounds contrary to the rules of the Association or Society, he shall be liable to a fine of not less than \$1 nor more than \$20; the fine to be enforced and collected as fines are usually collected, and to be paid over to the Association or Society for its use and benefit; and in default of payment the offender shall be imprisoned in the common gaol for a period of not more than thirty days. 49 V. c. 11, s. 83.

Penalty for obstructing officers or gaining admission contrary to rules.

84. The officers of such Association or Society may by their rules and regulations prohibit and prevent all kinds of gambling, theatrical, circus or mountebank performances, exhibitions or shows, and also regulate or prevent the huckstering or trafficking in fruits, goods, wares or merchandise on the Exhibition grounds, or within three hundred yards thereof; and any person who, after due notice of the rules and regulations, violates the same shall be liable to be removed by the officers, policemen or constables of said Association or Society, and be subject to the penalty prescribed by the next preceding section. 49 V. c. 11, s. 84.

Gambling, etc., to be prevented.

Penalty.

85. Any person who wilfully signs any false pedigree intended for registration in any Herd, Flock or Stud Book, or who presents to the Secretary or other officer having charge of the Register, for the purpose of having the same entered therein, any false or spurious pedigree knowing the same to be false or spurious, shall, upon summary conviction thereof before any Justice of the Peace, be liable to a penalty of not more than \$100 and not less than \$25 for each pedigree so signed or presented by him. 49 V. c. 11, s. 85.

Penalty for false pedigree.

Horse racing
prohibited
during exhibi-
tions.

86.—(1) It shall not be lawful to carry on horse-racing during the days appointed for holding any Exhibition by the Agriculture and Arts Association, or by any Electoral District or Township Society, within five miles of the place of holding the same. 49 V. c. 11, s. 86 (1); 50 V. c. 7, s. 32.

Penalty.

(2) Any person who is guilty of a violation of this section shall be liable, upon summary conviction before a Justice of the Peace, to a fine not exceeding \$50, or imprisonment in the common gaol of the County for a period not exceeding thirty days. 49 V. c. 11, s. 86 (2).

SCHEDULE A.

(Section 20.)

AGRICULTURAL DIVISIONS.

1. Stormont, Dundas, Glengarry, Prescott and Cornwall.
2. Lanark North, Lanark South, Renfrew North, Renfrew South, Carleton, Russell, and the City of Ottawa.
3. Frontenac, City of Kingston, Leeds and Grenville North, Leeds South, Grenville South, and Brockville.
4. Hastings East, Hastings North, Hastings West, Addington, Lennox and Prince Edward.
5. Durham East, Durham West, Northumberland East, Northumberland West, Peterborough East, Peterborough West, Victoria North (including Haliburton), and Victoria South.
6. York East, York North, York West, Ontario North, Ontario South, Peel, Cardwell, and City of Toronto.
7. Wellington Centre, Wellington South, Wellington West, Waterloo North, Waterloo South, Wentworth North, Wentworth South, Dufferin, Halton and City of Hamilton.
8. Lincoln, Niagara, Welland, Haldimand and Monck.
9. Elgin East, Elgin West, Brant North, Brant South, Oxford North, Oxford South, Norfolk North and Norfolk South.
10. Huron East, Huron South, Huron West, Bruce North, Bruce South, Grey East, Grey North and Grey South.
11. Perth North, Perth South, Middlesex East, Middlesex North, Middlesex West and City of London.
12. Essex North, Essex South, Kent East, Kent West, Lambton East and Lambton West.
13. Algoma East, Algoma West, Simcoe East, Simcoe South, Simcoe West, Muskoka and Parry Sound.

49 V. c. 11, Sched. A.

SCHEDULE B.

(Section 35.)

ELECTORAL DISTRICT SOCIETIES.

PART I.

The following Electoral Districts, as constituted prior to the 30th March, 1885, and being the same as now constituted.

See Cap. 7, ss. 14, 15.

Durham, East and West Ridings.	Wentworth, North and South Ridings.
Hastings, North, East, and West Ridings.	York, North Riding.
Huron, South Riding.	County of Carleton.
Kent, East and West Ridings.	“ Dundas.
Lambton, East and West Ridings.	“ Glengarry.
Lanark, North and South Ridings.	“ Halton.
Middlesex, North, East, and West Ridings.	“ Prescott.
Norfolk, North and South Ridings.	“ Prince Edward.
Northumberland, East and West Ridings.	“ Haldimand.
Oxford, North and South Ridings.	“ Lennox.
Peterboro', East and West Ridings.	“ Lincoln.
Renfrew, North and South Ridings.	“ Monck.
Waterloo, North and South Ridings.	“ Russell.
	“ Welland.
	City of Hamilton.

PART II.

An Agricultural Society may also be formed in each of the following Districts, as now constituted :

Bruce, South, Centre, and North Ridings.	Muskoka.
Algoma, East and West Ridings.	Parry Sound.

PART III.

The following Electoral Districts, as constituted prior to the 30th March, 1885, do not correspond with present Electoral Districts, and are Districts in which, by s. 35, an Agricultural Society may be organized, if not already organized therein :—

Brant, North Riding, consisting of the Townships of South Dumfries, Onondaga, the northerly portion (hereinafter described) of the Township of Brantford, and the Town of Paris.

Brant, South Riding, consisting of the Townships of Burford, Oakland, Tuscarora, the southerly portion of the Township of Brantford, and the City of Brantford.

The said northerly portion of the Township of Brantford includes and consists of all that portion of the said Township which lies on the northerly side of the Grand River ; and the said southerly portion of the said Township includes and consists of all the remainder of the said Township of Brantford.

Elgin, East Riding, consisting of the Townships of Bayham, Malahide, Yarmouth, South Dorchester, the Town of St. Thomas, and the Villages of Aylmer and Vienna.

- Elgin, West Riding, consisting of the Townships of Southwold, Dunwich, and Aldborough, and the Village of Port Stanley.
- Essex, North Riding, consisting of the Townships of Tilbury West, Rochester, Maidstone, Sandwich East and Sandwich West, the Towns of Windsor and Sandwich, and the Village of Belle River.
- Essex, South Riding, consisting of the Townships of Mersea, Gosfield, Colchester, Malden and Anderdon, the Town of Amherstburgh, the Village of Leamington, and the Municipality of Pointe au Pelée Island.
- Grey, North Riding, consisting of the Townships of St. Vincent, Sydenham, Sullivan, Derby, Keppel and Sarawak, and the Towns of Owen Sound and Meaford.
- Grey, South Riding, consisting of the Townships of Bentinck, Glenelg, Normanby and Egremont, and the Town of Durham.
- Grey, East Riding, consisting of the Townships of Osprey, Collingwood, Proton, Artemesia, Euphrasia and Holland.
- Huron, East Riding, consisting of the Townships of Howick, Grey, Morris, McKillop, and those parts of Hullett and Turnberry respectively which lie east of the road commonly called the Gravel Road, and the Villages of Brussels and Wroxeter.
- Huron, West Riding, consisting of the Townships of Ashfield, Wawanosh (East and West), Colborne and those parts of Hullett and Turnberry respectively which lie west of the road commonly called the Gravel Road, and that part of the Township of Goderich north of the said Huron Road and "Cut Line," and the Towns of Goderich and Clinton, and the Village of Wingham.
- Leeds and Grenville, North Riding, consisting of the Townships of Kitley, Elmsley, Wolford, Oxford and South Gower, and the Villages of Kemptville and Merrickville.
- Leeds, South Riding, consisting of the Townships of Front of Escott, Front of Leeds and Lansdowne, Rear of Leeds and Lansdowne, South Crosby, North Crosby, Bastard and South Burgess, and the Villages of Gananoque and Newboro'.
- Grenville, South Riding, consisting of the Townships of Edwardsburgh and Augusta, and the Town of Prescott.
- Ontario, North Riding, consisting of the Townships of Reach, Uxbridge, Brock, Scott, Thorah, Mara, Rama and Scugog, and the Villages of Port Perry and Uxbridge.
- Ontario, South Riding, consisting of the Townships of Whitby, East Whitby and Pickering, the Town of Whitby, and the Village of Oshawa.
- Perth, North Riding, consisting of the Townships of Wallace, Elma, Logan, Ellice, Mornington and North Easthope, and the Towns of Stratford and Listowel.
- Perth, South Riding, consisting of the Townships of Blanchard, Downie, South Easthope, Fullarton and Hibbart, and the Towns of Mitchell and St. Mary's.
- Simcoe, East Riding, consisting of the Townships of Tiny, Tay, Matchedash, Orillia, Medonte and Oro, the Town of Orillia, and the Village of Penetanguishene.
- Simcoe, West Riding, consisting of the Townships of Vespra, Flos, Sunnidale and Nottawasaga, the Towns of Barrie and Collingwood, and the Village of Stayner.
- Simcoe, South Riding, consisting of the Townships of Tosorontio, Essa, Innisfil and West Gwillimbury, and the Villages of Bradford and Alliston.

Victoria, North Riding, consisting of the Townships of Eldon, Carden, Dalton, Fenelon, Bexley, Laxton, Digby, Longford and Somerville; and the Provisional County of Haliburton, consisting of the following Townships:—Lutterworth, Anson, Hindon, Snowdon, Glamorgan, Monmouth, Cardiff, Minden, Dysart, Dudley, Harcourt, Stanhope, Guilford, Harburn, Bruton, Sherborne, Havelock, Eyre, Clyde, McClintock, Livingston, Lawrence and Nightingale.

Victoria, South Riding, consisting of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.

Wellington, South Riding, consisting of the Townships of Guelph, Puslinch and Eramosa, and the Town of Guelph.

Wellington, Centre Riding, consisting of the Townships of Pilkington, Nichol, Erin, West Garafraxa and Luther, and the Villages of Fergus and Elora.

Wellington, West Riding, consisting of the Townships of Arthur, Minto, Maryborough and Peel, the Town of Palmerston, and the Villages of Mount Forest, Harriston, Arthur, Clifford and Drayton.

York, East Riding, consisting of the Townships of Markham and Scarborough, that portion of the Township of York lying east of Yonge Street, and the Villages of Yorkville and Markham.

York, West Riding, consisting of the Townships of Etobicoke and Vaughan, that portion of the Township of York lying west of Yonge Street, and the Village of Richmond Hill.

The County of Addington, consisting of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Eftingham, Abinger, Miller, North and South Canonto, Ashby, Denbigh, Loughborough and Bedford, and the Village of Newburgh.

The County of Cardwell, consisting of the Townships of Caledon, Albion, Adjala and Tecumseth, and the Village of Bolton.

The County of Dufferin, consisting of the Townships of Mono, Melancthon, Amaranth, East Garafraxa and Mulmur, and the Town of Orangeville.

The County of Frontenac, consisting of the Townships of Kingston, Wolfe Island, Pittsburgh, Howe Island and Storrington, and the Villages of Garden Island and Portsmouth.

The County of Peel, consisting of the Townships of Chinguacousy, Toronto and the Gore of Toronto, the Town of Brampton, and the Village of Streetsville.

The Electoral District of Brockville, consisting of the Town of Brockville, the Township of Elizabethtown, the Township called Front of Yonge and the Township called Rear of Yonge and Escott.

The Electoral District of Cornwall, consisting of the Town of Cornwall and the Township of Cornwall. *See R. S. O. 1877, c. 8.*

The Electoral Division of Stormont, consisting of the Townships of Finch, Osnabrock and Roxburgh. *See R. S. O. 1877, c. 8.*

NOTE.—The Townships hereinbefore mentioned include all Towns and Incorporated Villages situated within the limits thereof respectively. *R. S. O. 1877, c. 5, s. 1.*

The City of Ottawa.

The City of Kingston.

The City of London.

East Toronto, which shall consist of all that part of the said City, as constituted prior to the 30th of March, 1885, lying east of the centre line of Yonge Street.

West Toronto, consisting of all that part of the said City, as constituted prior to the 30th day of March, 1885, lying west of the centre line of Yonge Street. *See R. S. O. 1877, c. 8.*

SCHEDULE C.

(Sections 35 and 46.)

DECLARATION OF ASSOCIATION.

We, whose names are subscribed hereto, agree to form ourselves into a Society, under the provisions of *The Agriculture and Arts Act*, to be called the Electoral District (or Township), Agricultural (or Horticultural) Society of the Electoral District (or Township or City or Town or incorporated Village) of _____; and we hereby severally agree to pay to the Treasurer the sums opposite our respective names; and we further agree to conform to the By-laws and Rules of the said Society.

[illegible]

49 V. c. 11, Sched. B.

SCHEDULE D.

(Section 57.)

AFFIDAVIT AS TO AMOUNT OF LOCAL CONTRIBUTIONS TO DISTRICT SOCIETY.

COUNTY OF _____)
To Wit : _____)

I, A. B. of the (Township) of _____, Treasurer of the Electoral District Agricultural Society of _____, make oath and say that the sum of _____ has been reported to me by the Treasurers of the Township Agricultural Societies and of the Horticultural Societies of the said Electoral District, under oath, as provided for in section 57 of *The Agriculture and Arts Act*, as and for the members' subscriptions for this year; and that the sum of _____ has been paid into my hands, as subscriptions for this year by members of the said Electoral District Society; and that the said sums amount in the whole to the sum of _____; and that the amounts received as subscriptions to the Electoral District Society now remain in my hands or have already been disposed of according to law.

Sworn before me this
day of _____, A. D. 18
C. D.,
Justice of the Peace for the County of _____

A. B.

49 V. c. 11, Sched. C.

SCHEDULE E.

(Section 58.)

AFFIDAVIT AS TO LOCAL CONTRIBUTIONS TO TOWNSHIP, ETC., SOCIETY.

COUNTY OF _____ }
 To Wit : _____ }

I, *A. B.* of the Township of _____, Treasurer of the Agricultural (or Horticultural) Society of the (Township) of _____ make oath and say that the sum of _____ has been paid into my hands, as and for the members' subscriptions for this year, in accordance with the list herewith sent to the Treasurer of the Electoral District Society (or to the Commissioner of Agriculture and Arts, *as the case may be*); and that the said sum is now in my hands, or has already been disposed of according to law.

Sworn before me this _____ day of _____, A.D. 18 _____ }
C. D., _____ *A. B.*
Justice of the Peace for the County of _____ }

49 V. c. 11, Sched. D.

SCHEDULE F.

(Section 75.)

CERTIFICATE OF APPOINTMENT OF DELEGATE.

We, the President and Secretary of the Electoral District Agricultural Society (or Horticultural Society, or other Society, *as the case may be*) of the Electoral District (City or Town or incorporated village) of _____, hereby certify that _____, President, (or other officer, *as the case may be*) of the said Society, has been duly appointed by the said Society to represent it at the approaching annual (or other) meeting of the Agricultural and Arts (or other) Association of Ontario, at _____, in the County of _____, on the _____ day of _____ next.

Dated this _____ day of _____, A.D. 18.

*President.**Secretary.*

[L.S.]

49 V. c. 11, Sched. E.

SCHEDULE G.

(Section 77.)

Know all men by these presents that we *A. B.*, Treasurer of the
Society (or Association) of the _____ of _____
in the County of _____ Esquire and *C. D.* of the _____
of _____ in the County of _____ Gentleman (*if more than one
surety is required, insert here the names of the others in like manner*)
do hereby jointly and severally, for ourselves and for each of our heirs
executors and administrators, covenant and promise that the said *A. B.* as
Treasurer of the _____ Society (or Association) shall well and truly
account for and pay over to the _____ Society (or Association) or
the person or persons entitled to the same, all moneys which he shall
receive by virtue of his said office of Treasurer, and that he will faithfully
perform the duties of his said office.

Nevertheless it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows : that is to say against the said *A. B.* in the whole \$ _____ (*the amount fixed by the Board of Directors*) against the said *C. D.* \$ _____ (*the amount fixed by the Board of Directors*) (*if more sureties were required by the Board, here add the names and amounts in like manner.*)

In witness whereof we have to these presents set our hands and seals
this _____ day of _____, A.D. 18.

A. B. (L. S.)
C. D. (L. S.)

Signed, Sealed, and Deliv- }
ered in presence of }

E. F.

6. STATISTICS.

CHAP. 40.—REGISTRATION OF BIRTHS, MARRIAGES AND DEATHS, p. 429.

CHAPTER 40.

An Act respecting the Registration of Births,
Marriages and Deaths.

INTERPRETATION, s. 1.	REGISTRAR-GENERAL TO ARRANGE RETURNS, s. 22.
PROVINCIAL SECRETARY TO BE REGISTRAR-GENERAL, s. 2.	SEARCHES OR EXTRACTS MAY BE MADE, s. 23.
REGISTRATION DIVISIONS AND DIVISION REGISTRARS, ss. 3, 4.	REGISTRAR-GENERAL TO PUBLISH A GENERAL REPORT OF RETURNS, s. 24.
FORMS TO BE FURNISHED, s. 5.	LIEUTENANT-GOVERNOR IN COUNCIL MAY MAKE RULES AS TO OBTAINING STATISTICAL INFORMATION, s. 25.
ANNUAL RETURNS TO BE MADE, s. 6.	INSPECTION OF REGISTRATION OFFICES, s. 26.
CLERGYMEN TO KEEP REGISTRY OF BAPTISMS, MARRIAGES AND DEATHS, s. 7.	PENALTY FOR FALSE STATEMENTS IN REPORTS, etc., s. 27.
REGISTRATION OF BIRTHS, ss. 8-12.	PENALTY FOR NEGLECT TO REPORT, s. 28.
REGISTRATION OF MARRIAGES, s. 13.	PROCEDURE ON COMPLAINTS, s. 29.
REGISTRATION OF DEATHS, ss. 14-19.	FEES OF REGISTRARS, s. 30.
CORRECTION OF ERRORS IN ENTRIES s. 20.	
PENALTY FOR DIVISION REGISTRAR FAILING TO PERFORM DUTY, s. 21.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The term “occupier,” used in sections 8 and 14 of this Act, shall be construed to include the Master, Governor, Keeper, Warden or Superintendent of a gaol, prison, penitentiary, lunatic asylum, poor asylum, hospital or other public or private charitable institution. R. S. O. 1877, c. 36, s. 1.

2. For the purposes of this Act the Provincial Secretary shall be the Registrar-General of the Province. R. S. O. 1877, c. 36, s. 2.

Interpre-
tation.
“Occupier.”

Prov. Secre-
tary to be Re-
gistrar Gen-
eral.

Registration
Divisions and
Division
Registrars.

3. For the purposes of this Act, every city, town, incorporated village, township or union of townships, shall be a Registration Division; and the clerks of such municipalities shall be Division Registrars; but this section shall not apply to any municipality within any of the districts referred to in the next succeeding section. R. S. O. 1877, c. 36, s. 3.

Appointment
of Registrars
in Algoma and
other districts.

4. The Lieutenant-Governor in Council may appoint such Division Registrars in the existing Districts of Algoma, Nipissing, Thunder Bay, Rainy River, Muskoka and Parry Sound, and also any Territorial Districts hereafter formed, and by Order in Council make such rules and regulations as may be necessary to secure a correct record of the births, marriages and deaths occurring therein, until municipal organizations are formed. 48 V. c. 12, s. 1.

Forms for Re-
registrars.

5. The Registrar-General shall procure the necessary forms for the Division Registrars, and the same shall be prepared according to Schedules A, B and C, appended to this Act, with such additional columns as may from time to time be added thereto by the Lieutenant-Governor in Council, in order to the procurement of correct statistical information; and he shall distribute the same to the several Division Registrars, and the costs and expenses of such forms, and the expenses attendant upon the distribution thereof, shall be paid out of the Consolidated Revenue fund of the Province. R. S. O. 1877, c. 36, s. 5.

Returns of
entries.

6. Every Division Registrar shall receive the forms sent by the Registrar-General, and keep the same in a place of safety; make all entries therein as hereinafter required in this Act; and shall on or before the 15th days of January and July in each and every year, make returns to the Registrar-General of the forms containing the original entries, certified under his hand, of the births, marriages and deaths of the previous six months. R. S. O. 1877, c. 36, s. 6.

Clergymen,
etc., to keep
a registry of
baptisms, mar-
riages and
deaths.

7. Every clergyman, teacher, minister or other person authorized by law to baptize, marry or perform the funeral service in Ontario, shall keep a registry shewing the persons whom he has baptized or married, or who have died within his cure and belonging to his congregation. R. S. O. 1877, c. 36, s. 7.

Notice of birth
to be given.

8. The father of any child born in this Province, or in case of his death or absence, the mother, or in case of the death or inability of both parents, any person standing in the place of the parents, or if there is no such person, then the occupier of the house or tenement in which to his knowledge the child was born, or the nurse present at the birth, shall, within thirty days from the date of the birth, give notice thereof to the Registrar of the Division in which the child was born, giving as far as possible the particulars required in Schedule A, with such addi-

tional information as may be required by the Registrar-General from time to time, which particulars shall be entered by the Division Registrar in his book. R. S. O. 1877, c. 36, s. 8.

9. In registering the birth of an illegitimate child, it shall not be lawful for the name of any person to be entered as the father unless at the joint request of the mother and of the person acknowledging himself to be the father; and in all cases of the registration of the birth of illegitimate children, the Division Registrar shall write the word "*Illegitimate*" in the column set apart for the name of the child, and immediately under the name, if any. R. S. O. 1877, c. 36, s. 9.

Registry of births of illegitimate children.

10. Every registration of a birth shall be made within the time aforesaid; but nothing herein contained shall prevent the subsequent registration of such birth within the period of two years. R. S. O. 1877, c. 36, s. 10; 44 V. c. 4, s. 3.

Time for registration.

11. After the expiration of two years next after the birth of a child, the birth shall not be registered except with the written authority of the Registrar-General, and the fact of such authority having been given shall be entered in the column set apart for remarks in Schedule A. 44 V. c. 4, s. 4.

Provision for registration of birth after expiration of two years.

12. When the birth of any child has been registered, and the name, if any, by which it was registered, has been altered, or if it was registered without a name, when a name is given to it, the parent or guardian of the child or other person procuring the name to be altered or given, may, within two years next after the registration of the birth, deliver to the Registrar-General a certificate signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or if the child is not baptized, signed by the father, mother or guardian of the child, or other person procuring the name of the child to be given or altered, and the Registrar-General shall upon the receipt of the certificate make the necessary alteration in the margin of the schedule containing the original entry, without making any alteration in the entry. 44 V. c. 4, s. 2.

Alteration of name after registration, how made.

13. Every clergyman, minister or other person authorized by law to celebrate marriages, shall be required to report every marriage he celebrates to the Registrar of the Division within which the marriage is celebrated, within ninety days from the date of the marriage, with the particulars required by Schedule B, appended to this Act, and in order to better enable the clergyman, minister or other person to make the report as aforesaid, he shall be furnished by the Division Registrar of the Division in which he resides with blank forms containing the particulars required by Schedule B. R. S. O. 1877, c. 36, s. 11.

Particulars as to marriage to be furnished.

Registrar to furnish forms.

Particulars as to death to be furnished to Registrars.

14. The occupier of the house or tenement in which a death takes place, or, if the occupier be the person who has died, then some one of the persons residing in the house in which the death took place, or if the death has not taken place within a house, then any person present at the death or having any knowledge of the circumstances attending the same, or the Coroner who attended any inquest held on such person, shall, before the interment of the body, supply to the Division Registrar of the Division in which the death took place, according to his or her knowledge or belief, all the particulars required to be registered touching such death, by the form provided by this Act. R. S. O. 1877, c. 36, s. 12.

Certificate of registry of death.

15. Every Division Registrar shall, immediately upon registering any death, or as soon thereafter as he is required so to do, without fee or reward, deliver to any person requiring the same for the purpose of burial, a certificate according to the form of Schedule D appended to this Act, that the particulars of such death have been duly registered. R. S. O. 1877, c. 36, s. 13.

Return to be made by minister, etc., officiating at funeral unless he has received certificate of Registrar of deaths.

16. Every minister or other person who buries or performs any funeral or religious service for the burial of any dead body, unless he has received a certificate under the hand of the Registrar of the Division in which the death took place, according to the Schedule D to this Act annexed, that the particulars of the death have been duly registered, shall make a return of the death according to Schedule C to this Act annexed, to the Registrar of the Division in which the death took place, within seven days after the burial, unless within the time aforesaid the minister or other person gives to the Registrar a written notice under his hand stating, according to his knowledge, information and belief, the name and residence of the deceased, and the date and place at which the burial took place, or at which the service was performed, either without or with any of the other particulars mentioned in the said Schedule C. R. S. O. 1877, c. 36, s. 14; 42 V. c. 12, s. 1.

Medical practitioners to certify to Registrars as to death.

17. Every duly qualified medical practitioner, who was last in attendance during the last illness of any person, shall, within ten days after having notice or knowledge of the death of such person, transmit to the Division Registrar of the Division in which the death took place, a certificate under his signature of the cause of death, according to the form of Schedule E appended to this Act, to be provided by the said Division Registrar, who shall be furnished with such forms; and it shall be the duty of every such medical practitioner to apply to the said Division Registrar for blank forms for that purpose, and upon the receipt of the certificate from the medical practitioner, by the Division Registrar, he shall make the entry as to the cause of death of such person according to the fact stated in the certificate. R. S. O. 1877, c. 36, s. 15.

18. After the expiration of two years next after any death, or after the finding of any dead body elsewhere than in a house, that death shall not be registered except with the written authority of the Registrar-General, and the fact of such authority being given shall be entered in the column set apart for remarks in Schedule C. 44 V. c. 4, s. 5.

Provision for registration of death after expiration of two years.

19. Every superintendent or caretaker of any cemetery or burial ground, whether public or private, permitting any dead body to be interred in the grounds over which he has charge, unless he receives a certificate under the hand of the Division Registrar of the Division in which the death took place, that the particulars of the death have been duly registered, shall give to the Division Registrar within seven days after the burial a written notice under his hand, stating according to his knowledge, information and belief, the name and residence of the deceased and the date and place at which the death and burial took place. 44 V. c. 4, s. 7, *part*.

Superintendent, etc., of cemetery to notify Registrar in certain cases.

20. If within one year after the entry of any birth, marriage or death, it is discovered that any error has been made in the entry, then upon the same being reported to the proper Division Registrar within the time aforesaid, it shall be his duty to inquire into the same, and if satisfied that an error has been committed in any such entry, it shall be lawful for him to correct the erroneous entry, according to the truth of the case, by entry in the margin, without any alteration in the original entry; and having made the correction, he shall, if the original entry of the birth, marriage or death so corrected has been returned as hereinbefore provided, report the same, according to the facts of the case, to the Registrar-General, whose duty it shall be to correct the erroneous entry in the margin of the book or form containing the original entry. R. S. O. 1877, c. 36, s. 16.

Correction of errors—Report to Registrar-General.

21. If any Division Registrar refuses or neglects to perform the duties required of him by this Act as Division Registrar, he shall, for every offence, upon conviction thereof before any Justice of the Peace, forfeit the sum of \$50 to Her Majesty; and it shall be the duty of the County Crown Attorney in each county to prosecute such officials for any refusal or neglect to perform the duties required by this Act, when notified by the Registrar-General, Inspector or other parties. R. S. O. 1877, c. 36, s. 17.

Penalty on Registrar for neglect of duty.

22. The Registrar-General shall cause the original returns of the births, marriages and deaths in each Division, together with all the particulars communicated to him by the Division Registrars, to be arranged, indexed, bound and kept in the office of the Registrar-General. R. S. O. 1877, c. 36, s. 18.

Registrar-General to keep and arrange, etc., returns.

23. All persons shall be entitled, at all reasonable hours, to search these records, and to require and receive extracts duly certified by the Registrar-General or Inspector; which extracts

Search of, and extracts from records—evidence—fees.

shall be evidence of the entry certified, and *prima facie* evidence in any Court in this Province, of the facts therein stated; and for every such certificate the person so requiring the same shall pay a fee of fifty cents. R. S. O. 1877, c. 36, s. 19.

Registrar-General to publish reports.

24. The Registrar-General shall, on or before the first day of July in each year, collate, publish and distribute, for the use of the Legislature, a full report of the births, marriages, and deaths of the preceding year, giving such details, statistics and information as the Lieutenant-Governor in Council may think necessary. R. S. O. 1877, c. 36, s. 20.

Power to make rules for obtaining information.

25. The Lieutenant-Governor in Council may, from time to time, make such further rules, orders and regulations as may be required for the purpose of effectually obtaining the information required by this Act. R. S. O. 1877, c. 36, s. 21.

Inspector of registration offices.

26. The Lieutenant-Governor in Council may appoint an Inspector, whose duty it shall be to inspect the different Registration Offices throughout the Province, and carefully examine the different Schedules, to see that the entries and registrations are made therein in a proper manner and in legible handwriting. R. S. O. 1877, c. 36, s. 22.

Penalty for false statements.

27. Any person who knowingly or wilfully makes or causes to be made a false statement touching any of the particulars required to be reported and entered under this Act, shall, upon conviction thereof before any Justice of the Peace, forfeit the sum of \$40. R. S. O. 1877, c. 36, s. 23.

Penalty for neglect to report.

28. If any person required by this Act to report births, marriages, deaths or burials, refuses or wilfully neglects to do so within the time named, such person shall, for each and every offence, forfeit and pay a sum not less than \$1, nor more than \$20 and costs, in the discretion of the presiding Justice before whom the case is heard; and it shall be the duty of the Division Registrar to prosecute all such persons so neglecting or refusing to make the required reports: but if the return required by this Act to be made by more than one person is made by any one of such persons, the other of such persons shall not be liable to any penalty in respect of his default; and such prosecution shall be commenced within two years after the time allowed for reporting the birth, marriage, death or burial. R. S. O. 1877, c. 36, s. 24; 44 V. c. 4, ss. 6, 7, *part.*

Procedure on complaints.

29. Any Justice of the Peace having jurisdiction within the locality where any offence against this Act has been committed may hear and determine the complaint, and shall have power, in case the penalty and costs awarded by him are not forthwith paid upon conviction, to levy the same by distress and sale of the goods and chattels of the offender, by warrant under his

hand and seal ; and, except as provided in section 21, the penalty when recovered shall be paid over by the Justice, one-half to the person complaining and one-half to the local municipality within which the offence is committed ; and, in default of payment or sufficient distress, the offender may, by warrant signed and sealed as aforesaid, be imprisoned in the Common Gaol for a period not less than one day nor more than twenty days, at the discretion of the Justice, unless the penalty, costs and charges of commitment are sooner paid. R. S. O. 1877, c. 36, s. 25.

30. Every Municipality throughout the Province of Ontario shall pay annually to the Division Registrar appointed under this Act, a fee of ten cents for each birth, marriage and death registered by him under the provisions of this Act, upon receiving from the Inspector a certificate of the number of registrations made by such Registrar. R. S. O. 1877, c. 36, s. 26.

SCHEDULE B.—MARRIAGES. (Sections 5 and 13.)

County of

Division of

BRIDEGROOM.				BRIDE.																		
His name.	Age.	Residence when married.	Place of birth.	Bachelor or widower. (B. or W.)	Rank or profession.	Name of parents.	Her name.	Age.	Residence when married.	Place of Birth.	Spinster or widow. (S. or W.)	Name of Parents.	Names of witnesses.	Residence of witnesses.	Date of marriage.	Religious denomination of bridegroom.	Religious denomination of bride.	By whom married.	By license.	By banns.	Remarks.	

I hereby certify the foregoing to be the true and correct entries of all marriages returned to me for the half-year ending the day of
A. D. 18

18

Division Registrar of

R. S. O. 1877, c. 36, Sched B.

SCHEDULE D.

(Sections 15 and 16.)

I, _____, Division Registrar of the Municipality of _____,
do hereby certify that the particulars of the death
of _____ have been duly registered.
Division Registrar's Office,
day of _____ 18 .

(Signature)

R. S. O. 1877, c. 36, Sched. D.

SCHEDULE E.

(Section 17.)

CAUSE OF DEATH.

County of _____

Division of _____

Name and surname of deceased.	Sex.	Residence.	Rank or profession.	Duration of illness.	Cause of death.

I hereby certify the foregoing to be a true and correct certificate of the
cause of the death of the person therein named.

Given under my hand this _____ day of _____, 18 .

M.D.

R. S. O. 1877, c. 36, Sched. E.

SECTION VI.

ADMINISTRATION OF JUSTICE

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1. *APPEALS TO THE PRIVY COUNCIL.*

CHAPTER 41.

An Act respecting Appeals to Her Majesty in Her Privy Council.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

When appeals may be made to the Queen in Privy Council.

1. In a case where the matter in controversy exceeds the sum or value of \$4,000, as well as in a case where the matter in question relates to the taking of any annual or other rent, customary or other duty, or fee, or any like demand of a general and public nature affecting future rights, of what value or amount soever the same may be, an appeal shall lie to Her Majesty in Her Privy Council; and except as aforesaid no appeal shall lie to Her Majesty in Her Privy Council. R. S. O. 1877, c. 38, s. 49.

Security to be given.

2. No such appeal shall be allowed until the appellant has given security in \$2,000, to the satisfaction of the Court appealed from, that he will effectually prosecute the appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is confirmed. R. S. O. 1877, c. 38, s. 50.

Execution to be stayed.

3. Upon the perfecting of such security, execution shall be stayed in the original cause. R. S. O. 1877, c. 38, s. 51.

Practice of Court of Appeal to apply.

4. The practice applicable to staying executions upon appeals to the Court of Appeal shall apply to an appeal to Her Majesty in Her Privy Council. R. S. O. 1877, c. 38, s. 52.

Approval of security.

5. Every Judge of the Court of Appeal shall have authority to approve of and allow the security to be given by a party who intends to appeal to Her Majesty in Her Privy Council, whether the application for such allowance be made during the sitting of the said Court, or at any other time. R. S. O. 1877, c. 38, s. 53.

Costs.

6. Costs awarded by Her Majesty in Her Privy Council upon an appeal, shall be recoverable by the same process as costs awarded by the Court of Appeal. R. S. O. 1877, c. 38, s. 54.

2. SUPREME AND EXCHEQUER COURTS OF CANADA.

CHAPTER 42.

An Act respecting the Supreme Court of Canada and the Exchequer Court of Canada.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The Supreme Court of Canada, and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the provisions of the Act of the Parliament of Canada, known as "*The Supreme and Exchequer Courts Act*," shall have jurisdiction in the following cases :—

1. Of controversies between the Dominion of Canada and this Province ;

Supreme Court and Exchequer Courts of Canada.

2. Of controversies between any other Province of the Dominion, which may have passed an Act similar to this present Act, and this Province ;

Controversies between Canada and Ontario.

Controversies between Ontario and certain other Provinces.

3. Of actions, or proceedings, in which the parties thereto, by their pleadings have raised the question of the validity of an Act of the Parliament of Canada, or of an Act of the Legislature of this Province, when in the opinion of a Judge of the Court in which the same are pending such question is material ; and in such case the said Judge shall, at the request of the parties, and may without such request, if he thinks fit, order the case to be removed to the Supreme Court in order to the decision of such question. R. S. O. 1877, c. 37, s. 1.

Cases involving the validity of Acts of Canada or Ontario.

2. In any action respecting property or civil rights, whether for damages or for specific relief, no appeal shall lie to the Supreme Court of Canada without the special leave of such Court, or of the Court of Appeal, unless the title to real estate or some interest therein, or the validity of a patent is affected ; or unless the matter in controversy on the appeal exceeds the sum or value of \$1,000, exclusive of costs ; or unless the matter

Limitation of appeal to Supreme Court of Canada.

in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights. 44 V. c. 5, s. 43.

Authority of
Judges of the
Court of Ex-
chequer as to
use of Court
House, etc.

3. In case sittings of the Court of Exchequer of Canada are appointed to be held in any city, town, or place in which a court house is situated, the Judge presiding at any such sittings, shall have, in all respects the same authority as a Judge of the High Court in regard to the use of the court house and other buildings or apartments set apart in the county for the administration of justice. R. S. O. 1877, c. 37, s. 2.

[See R. S. C. c. 135, ss. 72, 73.]

3. MARITIME COURT OF ONTARIO.

CHAPTER 43.

An Act respecting the Maritime Court of Ontario.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Authority of
Judge as to
use of court
house, etc.

1. In case sittings of the Maritime Court of Ontario or of any Judge thereof are appointed to be held in any city, town or place in which a court house is situated, the Court or Judge shall for all purposes connected with the said Maritime Court and its process have the same authority as the County Court or a Judge thereof in regard to the use of the court house, gaol and other buildings or apartments set apart in the county for the administration of justice. 46 V. c. 18, s. 466.

4. CONSTITUTION OF PROVINCIAL COURTS.

CHAPTER 44.

An Act respecting the Supreme Court of Judicature.

SHORT TITLE, s. 1.	RULES OF LAW, ss. 52-54.
INTERPRETATION, s. 2.	NOTICE TO BE GIVEN TO MINISTER OF JUSTICE AND TO ATTORNEY-GENERAL BEFORE ANY ACT DECLARED INVALID, s. 55.
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Presiding Judge, s. 16.	TRANSFER OF CAUSES FROM COUNTY AND DIVISION COURTS TO HIGH COURT, s. 158.
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Precedence of Judges, s. 7.	
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JURISDICTION OF HIGH COURT, ss. 20-42.	
JURISDICTION OF COURT OF APPEAL, ss. 43-51.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

TITLE.

1. This Act may be cited as "*The Judicature Act.*" 44 V. Short title. c. 5. s. 1.

INTERPRETATION.

2. Where the words following occur in this Act and in the Rules, made thereunder or under *The Ontario Judicature Act, 1881*, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears.

1. "Rules of Court" shall include forms.

Interpretation
of terms.
44 Vic. c. 5.

2. "Cause" shall include any action, suit, or other original proceeding between a plaintiff and a defendant.

3. "Action" shall include suit and shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by rules of Court.

4. "Matter" shall include every proceeding in the Court not in a cause.

5. "Plaintiff" shall include every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise.

6. "Petitioner" shall include every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant.

7. "Defendant" shall include every person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings.

8. "Party" shall include every person served with notice of, or attending, any proceeding, although not named on the record.

9. "Pleading" shall include any petition or summons, and shall also include the statement in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant.

10. "Judgment" shall include decree.

11. "Order" shall include rule.

12. "Oath" shall include solemn affirmation and statutory declaration.

13. "Proper Officer" shall, unless and until any Rule to the contrary is made, mean an officer to be ascertained as follows :—

(a) Where any duty to be discharged under this Act or under Rules of Court is a duty which has been discharged by any officer, such officer shall continue to be the proper officer to discharge the same, until otherwise provided by Rule ;

(b) Where any new duty is under this Act or under the Rules aforesaid to be discharged, the proper officer to discharge the same shall be such officer having previously discharged analogous duties, as may from time to time be directed to discharge the same, in the case of an officer of the High Court, not attached to any Division, by the President of the High Court, and in the case of an officer attached to any Division, by the President of the Division.

CONSTITUTION OF SUPREME COURT.

3.—(1) The Supreme Court of Judicature for Ontario at present existing is hereby continued, and all commissions, rules, orders and regulations granted or made, in, by, or respecting the former Court of Queen's Bench for Ontario, the Court of Chancery for Ontario, and the Court of Common Pleas for Ontario, or the Supreme Court of Judicature, the Court of Appeal, and the High Court of Justice, or the Judges or officers thereof, existing and in force when this Act takes effect, shall remain in force until altered or rescinded or otherwise determined. R. S. O. 1877, c. 39, s. 2; 44 V. c. 5, s. 3 (1). Supreme Court of Judicature continued.

(2) The Supreme Court shall continue to consist of two permanent divisions, to be called "The High Court of Justice for Ontario," and "The Court of Appeal for Ontario."

(3) The High Court of Justice for Ontario shall continue to consist of three divisions, to be called the Queen's Bench Division, the Chancery Division, and the Common Pleas Division of the High Court. 44 V. c. 5, s. 3 (2, 3).

(4) The Queen's Bench Division shall, during the reign of a King, be called "The King's Bench Division," and during the reign of a Queen, "The Queen's Bench Division." R. S. O. 1877, c. 39, s. 3.

(5) The persons hereafter appointed to fill the places of the Chief Justice of the Queen's Bench, the Chancellor of Ontario, and the Chief Justice of the Common Pleas, and their successors respectively, are to be appointed by the authority mentioned in *The British North America Act* and with the same respective titles as heretofore. 44 V. c. 5, s. 3 (4). Imp. Stat. 30:31 V. c. 3

(6) The persons to be appointed Judges of the High Court shall be Barristers-at-Law of at least ten years' standing at the Bar of Ontario. R. S. O. 1877, c. 39, s. 8.

(7) Save as in this Act is otherwise expressly provided, all the Judges hereinbefore mentioned, and their successors, shall have in all respects equal power, authority and jurisdiction. 44 V. c. 5, s. 3 (5).

(8) The Chief Justice of the Queen's Bench shall be the President of the Queen's Bench Division, the Chancellor shall be the President of the Chancery Division, and the Chief Justice of the Common Pleas shall be the President of the Common Pleas Division. 44 V. c. 5, s. 3 (6).

(9) Besides the Chief Justice of the Queen's Bench, two Justices of the High Court shall be attached to the Queen's Bench Division; besides the Chancellor of Ontario, three Justices of the High Court shall be attached to the Chancery

Division; and besides the Chief Justice of the Common Pleas, two Justices of the High Court shall be attached to the Common Pleas Division. See 44 V. c. 5, s. 3 (3, 8); 48 V. c. 13, ss. 2-4.

(10) The President of the said High Court shall be that one of the Presidents of the Queen's Bench, Chancery and Common Pleas Divisions, who, for the time being, is first in order of seniority.

(11) Upon a vacancy happening among the Judges, the Judge appointed to fill the vacancy is (subject to the provisions of this Act, and to any Rules of Court which may be made pursuant thereto) to become and be a member of the same Division to which the Judge whose place has become vacant belonged.

(12) Nothing in this Act shall prevent, or shall be construed as intended to prevent, the transfer of any Judge of any of the said Divisions from one to another of the said Divisions. 44 V. c. 5, s. 3, (7-9).

Judgment by Judge who resigns after case heard,

4. Where a Judge resigns his office, and any case which has been fully heard by such Judge, either alone or jointly with other Judges, stands for judgment, he may give judgment therein as if he was still a Judge of the same Court; and any such judgment shall be of the same force and validity as if he were still such Judge, provided that such judgment of the Judge be delivered within six weeks after his said resignation. 44 V. c. 5, s. 86.

Existing Court of Appeal continued,

5. The Court of Appeal for Ontario, at present existing is continued, under that name, and shall consist of a Chief Justice, to be called the Chief Justice of Ontario, and three other Judges, to be called Justices of Appeal, and the Judges of the High Court, shall be *ex officio* Judges of the Court of Appeal, so as to provide for the cases mentioned in section 12 of this Act. 44 V. c. 5, s. 4; R. S. O. 1877, c. 38, s. 3; 48 V. c. 13, s. 2.

Vacancies in Court of Appeal, how filled,

6. The Chief Justice of Ontario and the Justices of Appeal may be selected from the Judges for the time being, or retired Judges of the High Court, or from such barristers as are eligible to be appointed Judges of that Court. R. S. O. 1877, c. 38, s. 4.

Precedence of Judges,

7.—(1) The Chief Justice of Ontario shall have rank and precedence over all other Judges of the Courts in Ontario.

(2) The Justices of Appeal, the Chief Justice of the Queen's Bench, the Chancellor of Ontario, and the Chief Justice of the Common Pleas shall have rank and precedence among themselves according to their seniority of appointment to any of the said offices.

(3) The other Judges of the High Court shall have rank and precedence among themselves according to seniority of appointment to their respective offices. R. S. O. 1877, c. 38, s. 6; c. 39, s. 7; c. 40, s. 6.

8. The Chief Justice of Ontario and the Justices of Appeal, may, in addition to their duties as Judges of the Court of Appeal, preside over Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol delivery, and hold sittings of the High Court of Justice, for the trial of civil causes, matters and issues, and criminal matters or proceedings; and every such Justice in the exercise of such duties shall have the same rights, powers and privileges as a Judge of the High Court presiding at such Courts or sittings. R. S. O. 1877, c. 38, s. 8. Appeal Judges may hold Assizes, etc.

9. Upon the request of the Judge or Judges with or for whom he is requested to sit or act, it shall be lawful for any Judge of the Court of Appeal, or any retired Judge of the said Court, or of the High Court, who may consent so to do, to sit and act as a Judge of the said High Court, or to perform any other official or ministerial acts for or on behalf of any Judge absent from illness or any other cause, or in the place of any Judge whose office has become vacant, or as an additional Judge of any Division; and while so sitting and acting, any such Judge of the Court of Appeal or retired Judge shall have all the power and authority of a Judge of the said High Court. R. S. O. 1877, c. 39, s. 10; c. 40, s. 22; 44 V. c. 5, ss. 40, 85. Provision for absence or vacancy in office of a Judge.

10. No sitting of the Court of Appeal shall be held unless Quorum. four of its members are present, where the appeal is from the High Court, or unless three of its members are present where the appeal is from a County Court, Provisional Judicial District Court, or Judge of a Surrogate Court or Stipendiary Magistrate. 41 V. c. 8, s. 2.

11.—(1) In case from pressure of business, or other cause, it shall at any time seem expedient to the Lieutenant-Governor in Council, or to the Judges of the Supreme Court, or a majority of them (of which majority two Judges of the Court of Appeal, including the Chief Justice, unless absent on leave, shall form part), the Court of Appeal may sit in two Divisions at the same time; and in such case, and to enable two Divisional Courts to be held, the Judges of the said Supreme Court, or the said majority of them, shall select from the Judges of the High Court so many of the Judges thereof as may be necessary, together with the ordinary Judges of the Court of Appeal, to form two Divisions of the said Court, and the Judges so chosen and acting shall have all the power and authority of the Judges of the said Court of Appeal. Divisional Courts of Court of Appeal.

(2) Unless otherwise arranged by the Judges of the Court of Appeal and the said Judges so selected, two of the ordinary Judges of the Court of Appeal shall where practicable sit in each such Divisional Court. 44 V. c. 5, s. 42.

Quorum may be made up by the Judges of the High Court.

12. In case of there being a vacancy in the Court of Appeal, or in case from illness or some other cause, any of the Judges of the said Court is not present at some sitting of the Court, or in case any of the said Judges is under some legal disqualification to hear an appeal, the Judges of the High Court shall choose from amongst their number as many Judges as are necessary, to form a quorum; and the Judges so chosen and acting shall have authority to continue to hear appeals partly heard before them, and to give judgment in all appeals heard before them, notwithstanding that such vacancy may in the meantime have been filled up, or that the Judge who was absent may have resumed his duties. R. S. O. 1877, c. 38, s. 10.

Judge whose decision appealed from, etc., not to sit on appeal.

13. No Judge against whose judgment an appeal is brought, or who took part in the trial of the cause or matter, or in the hearing in the Court below, shall sit or take part in the hearing of or adjudication upon the proceedings in the Court of Appeal. R. S. O. 1877, c. 38, s. 13.

Written judgment of an absent Judge may be read by another Judge.

14. Where a Judge has heard a case in the Court of Appeal and is not present at the time of the judgment of the Court being delivered, his written judgment may be read by one of the other Judges of the Court, and shall have the same effect as if he were present; and in such case if the judgment delivered is on an appeal from the High Court, it shall be sufficient if three Judges are present; and if the judgment is on an appeal from the County Court, it shall be sufficient if two Judges are present; and it shall not be necessary that the Judges shall be unanimous. 45 V. c. 6, s. 2. See also s. 4, *ante*.

Judgment may be given in the absence of one of the Judges who heard the cause if other Judges are unanimous.

15. In case, after a cause or matter in the Court of Appeal has been heard and stands for judgment, one of the Judges by whom the appeal was heard is transferred to the Supreme Court of Canada, or resigns his office, or is absent from illness or other cause, or dies, the remaining Judges, if unanimous in their decision, may give judgment as if such Judge were still a Judge of the said Court of Appeal, and were present and taking part in the said judgment. 45 V. c. 6, s. 3.

Presiding Judge in absence of Chief Justice.

16. In the absence of the Chief Justice of Ontario, the Judge entitled to precedence over the other Judges present shall preside. R. S. O. 1877, c. 38, s. 14.

Sittings of the Court of Appeal.

17. The Court of Appeal shall subject to the provisions of section 57 of this Act, hold its sittings at the City of

Toronto at such times and for such periods as the acting Judges thereof for the time being, or a majority of them, may deem necessary or convenient for the speedy despatch of business. R. S. O. 1877, c. 38, s. 15; 44 V. c. 5, s. 19.

18. The oath to be taken by the Judges to be hereafter appointed shall be the following:—

“I do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as ; so help me God.” 44 V. c. 5, s. 5.

19. The oath is to be administered to the Chief Justices and the Chancellor by the Lieutenant-Governor in Council, and to the Justices of the High Court, other than the Chief Justices, in presence of the President of the High Court; and to the Justices of the Court of Appeal in open Court by the Chief Justice of Ontario, unless the Lieutenant-Governor in any of such cases shall otherwise direct. 44 V. c. 5, s. 5.

JURISDICTION OF HIGH COURT.

20. The High Court shall be a Superior Court of Record of original jurisdiction, and shall, subject as in this Act mentioned, possess all such powers and authorities, as by the law of England, are incident to a Superior Court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents, and privileges of a Court of Record, and all other rights, incidents and privileges as fully to all intents and purposes as the same were on the 5th day of December, 1859, used, exercised and enjoyed by any of Her Majesty's Superior Courts of Common Law at Westminster in England, and may and shall hold plea in all and all manner of actions and causes as well criminal as civil, and may and shall proceed in such actions and causes by such process and course as are provided by law; and as shall tend with justice and despatch to determine the same; and may and shall hear and determine all issues of law; and may and shall also hear and (with or without a jury, as provided by law) determine all issues of fact that may be joined in any such action or cause, and judgment thereon give, and execution thereof award in as full and ample a manner as might, at the said date, be done in Her Majesty's Courts of Queen's Bench, Common Bench, or, in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled goods), by the Court of Exchequer in England. R. S. O. 1877, c. 39, s. 4; 44 V. c. 5, s. 9 (1).

21. The High Court shall also, subject as in this Act mentioned, have the like jurisdiction and powers as by the laws of England were on the 4th day of March, 1837, possessed by the Court of Chancery in England, in respect of the matters hereinafter enumerated, that is to say:

1. In all cases of fraud and accident;

2. In all matters relating to trusts, executors and administrators, copartnership and account, mortgages, awards, dower, infants, idiots, lunatics and their estates ;

3. To stay waste ;

4. To compel the specific performance of agreements ;

5. To compel the discovery of concealed papers or evidence, or such as may be wrongfully withheld from the party claiming the benefit of the same ;

6. To prevent multiplicity of suits ;

7. To decree the issue of letters patent from the Crown to rightful claimants ;

8. To repeal and avoid letters patent issued erroneously or by mistake, or improvidently, or through fraud. R. S. O. 1877, c. 40, s. 34 ; 44 V. c. 5, s. 9 (1). *See also* sec. 53 (9).

Rules of decision in such cases.

22. The rules of decision in the said matters in the last preceding section mentioned shall, except where otherwise provided, be the same as governed the Court of Chancery in England, in like cases, on the 4th day of March, 1837. R. S. O. 1877, c. 40, s. 35 ; 44 V. c. 5, s. 9 (1).

Jurisdiction in cases where formerly no adequate remedy at law.

23. The High Court shall have the like jurisdiction and power as the Court of Chancery in England possessed on the 10th day of June, 1857, as a Court of Equity to administer justice in all cases in which there existed no adequate remedy at law. R. S. O. 1877, c. 40, s. 36 ; 44 V. c. 5, s. 9 (1).

Jurisdiction in matters of revenue.

24. The High Court shall have the like equitable jurisdiction in matters of revenue as the Court of Exchequer in England possessed on the 18th day of March, 1865. R. S. O. 1877, c. 40, s. 37 ; 44 V. c. 5, s. 9 (1).

Relief against forfeiture for breach of covenant to insure in certain cases. Imp. Act 22-23 V. c. 35, s. 4.

25. The High Court shall have power to relieve against a forfeiture for breach of a covenant or condition in any lease to insure against loss or damage by fire, where no loss or damage by fire has happened, and the breach has, in the opinion of the Court, been committed through accident or mistake, or otherwise without fraud or gross negligence, and there is an insurance on foot at the time of the application to the Court in conformity with the covenant to insure, upon such terms as to the Court may seem fit. R. S. O. 1877, c. 40, s. 49 ; 44 V. c. 5, s. 9 (1).

When relief is granted, the same to be recorded. Imp. Act 22-23 V. c. 35, s. 5.

26. The Court, where relief is granted, shall direct a record of such relief having been granted to be made by indorsement on the lease or otherwise. R. S. O. 1877, c. 40, s. 50 ; 44 V. c. 5, s. 9 (1).

27. The preceding two sections shall be applicable in the case of leases for a term of years absolute, or determinable on a life or lives or otherwise, and also in the case of a lease for the life of the lessee or the life or lives of any other person or persons. To what leases preceding provisions apply. Imp. Act 22-23 V.c. 35, s. 9. R. S. O. 1877, c. 40, s. 51; 44 Vic. c. 5, s. 9 (1).

28. In any action or proceeding in the High Court for partition or sale of the estate of joint tenants, tenants in common or co-parceners, where any of the persons interested in the lands whereof partition or sale is sought are unknown to the plaintiff, or have not been heard of for three years or upwards, the Court shall have the same jurisdiction that, in proceedings under *The Partition Act*, it possesses for the purpose of binding the interests of such persons and dealing with the estate of such of them as by reason of long continued absence may reasonably be believed to be dead; and the like proceedings may be taken in such action or proceeding for the said purposes as might be taken upon a petition under the said Act; and every deed or vesting order made in any such action or proceeding shall have the same effect as a deed or vesting order made in proceedings under the said Act. Jurisdiction in Partition, Rev. Stat., c. 104. R. S. O. 1877, c. 40, s. 52; 44 V. c. 5, s. 9 (1).

29. The High Court shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England, or to any wife who would be entitled by the law of England to a divorce and to alimony as incident thereto, or to any wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her, by the law of England, to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the Court. Jurisdiction in alimony. R. S. O. 1877, c. 40, s. 43.

30. An order or judgment for alimony may be registered in any Registry Office in Ontario, and the registration shall, so long as the order or judgment registered remains in force, bind the estate and interest of every description which the defendant has in any lands in the County or Counties where the registration is made, and operate thereon in the same manner and with the same effect as the registration of a charge by the defendant of a life annuity on his lands. Judgment for alimony may be registered and thus bind lands. R. S. O. 1877, c. 40, s. 44; c. 112, s. 47.

31. In every case in which the Court has authority to order the execution of a deed, conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal estate in such person or persons, and in such manner, and for such estates, as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed, by Vesting order, effect of.

deed or otherwise, for the same estate or interest, to the person in whom the same is so ordered to be vested, or in the case of a *chose in action*, as if such *chose in action* had been actually assigned to such last-mentioned person. R. S. O. 1877, c. 40, s. 101; 44 V. c. 5, s. 9 (1).

Jurisdiction of Court of Chancery in respect to leases, settled estates, estates of infants, and special cases.

32.—(1) The High Court shall have the same jurisdiction as the Court of Chancery in England had on the eighteenth day of March, 1865, in regard to leases and sales of settled estates, and in regard to enabling infants, with the approbation of the Court, to make binding settlements of their real and personal estate on marriage; and in regard to questions submitted for the opinion of the Court in the form of special cases on the part of such persons, as may by themselves, their committees or guardians, or otherwise, concur therein. R. S. O. 1877, c. 40, s. 85; 44 V. c. 5, s. 9.

(2) The examination of a married woman apart from her husband, as to her knowledge of the nature and effect of an application for the sale or leasing of any settled estate, or as to her consent thereto, shall in no case be necessary unless expressly directed by the Court or a Judge.

(3) Infants and persons of unsound mind (not so found), required to be served with notice of any application to the High Court, may be served by delivering to the official guardian *ad litem* a copy of the petition or other proceeding required to be served; and from the time of such service, the said official guardian shall be the guardian *ad litem* of the infant or person of unsound mind, unless and until the Court or Judge, otherwise orders; and the said official guardian, or any other guardian appointed by the Court for the infant or person of unsound mind, shall take all such proceedings as he may think necessary for the protection of the interests of the infant or person of unsound mind in the proceeding in which he is so appointed guardian.

(4) In case there be more than one infant or person of unsound mind (not so found) for whom service is made on the official guardian *ad litem*, one copy only of the petition or other proceeding, need be so served, but the name of each person on whose behalf the official guardian is served, is to be stated on the copy served.

(5) Money realized from the sale or leasing of any settled estate or any interest therein, shall be paid, applied or invested, as the Court or a Judge shall direct. 49 V. c. 16, s. 8.

The Court may try the validity of wills.

33. The High Court shall have jurisdiction to try the validity of last wills and testaments, whether the same respect real or personal estate, and whether probate of the will has been granted or not, and to pronounce such wills and testaments to be void for fraud and undue influence or otherwise,

in the same manner and to the same extent as the Court has jurisdiction to try the validity of deeds and other instruments. R. S. O. 1877, c. 40, s. 41; 44 V. c. 5, s. 9.

34. The High Court shall also have jurisdiction—

Jurisdiction.

1. In matters testamentary as provided in sections 30 to 32 inclusive of *The Surrogate Courts Act*. R. S. O. 1877, c. 40, s. 42. In matters testamentary. Rev. Stat. c. 50.

2. On any appeal from the judgment or decision of the Commissioners under *The Act to prevent Trespasses to Public Lands*, as provided in said Act. R. S. O. 1877, c. 40, s. 88; c. 27, s. 19. Appeals against judgment of Commissioners under Rev. Stat. c. 29.

3. In respect of lunatics and infants and their property and estates, as provided by *The Act respecting Lunatics and The Act respecting Infants*. R. S. O. 1877, c. 40, ss. 58, 75. Lunatics and Infants. Rev. Stat. cc. 53, 137.

4. In respect of guardians and trustees, as provided by *The Act respecting Infants*. R. S. O. 1877, c. 40, s. 84. Testamentary guardians. Rev. Stat. c. 137.

5. In respect of partition and sale of real estate as provided in *The Partition Act*. R. S. O., 1877, c. 101, ss. 5, 7. Partition. Rev. Stat. c. 104.

35. The High Court shall have, generally, all the jurisdiction which, prior to the 22nd day of August, 1881, was vested in, or capable of being exercised by, the Court of Queen's Bench, Court of Chancery, Court of Common Pleas, and Courts of Assize, Oyer and Terminer, and Gaol Delivery (whether created by Commission or otherwise), and the High Court shall be deemed to be and shall be a continuation of the said Courts respectively (subject to the provisions of this Act) under the said name of "The High Court of Justice for Ontario." 44 V. c. 5, s. 9 (1). General jurisdiction.

36. The jurisdiction of the High Court shall include (subject to the exceptions hereinafter contained) the jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by the Judges of the said Courts, respectively, sitting in Court or Chambers, or elsewhere, when acting as Judges in pursuance of any statute or law; and all powers given to any such Court, or to any such Judges, by any statute; and also all ministerial powers, duties, and authorities, incident to any and every part of the jurisdiction. 44 V. c. 5, s. 9 (2). Existing jurisdiction of Judges continued.

37. Every Judge of the High Court shall have, use and exercise all the rights, incidents and privileges of a Judge of a Court of Record, and all other rights, incidents and privileges as fully to all intents and purposes as the same were, prior to the 5th day of December, 1859, used, exercised or enjoyed by any of the Judges of any of Her Majesty's Superior Courts of Common Law at Westminster. R. S. O. 1877, c. 39, s. 6. Rights and privileges of Judges.

A Judge to sit
in Chambers.

38. The Judges of the High Court shall, in rotation or otherwise as they may agree among themselves, sit in Chambers or elsewhere, and there transact any such business as may be transacted by a single Judge out of Court, whether such business be in the Division of the High Court to which such Judge is attached or in another Division, subject to the right of appeal as provided in this Act and the Rules from time to time in force. R. S. O. 1877, c. 39, s. 26.

Any one whilst
acting as Judge
of Assize in
Toronto, may
act as Judge in
Chambers.

39. Any person sitting or acting as Judge at any Assizes or Sittings of the High Court for the trial of causes, matters, and issues, in the City of Toronto, may, while so sitting or acting as such Judge, or while the Assizes or sittings last, act as a Judge in Chambers in all matters as if he were a Judge of the High Court. R. S. O. 1877, c. 39, s. 27; c. 41, s. 10.

Any one sit-
ting as Judge
of Assize may
during sittings
act as Judge in
Chambers.

40. Any person acting as a Judge at any Assizes or Sittings of the High Court for the trial of causes, matters, and issues, may, in and for the County in which he is acting, and while the sittings of the said Court last, act as a Judge in Chambers in all matters entered for trial before him, as if he were a Judge of the High Court. R. S. O. 1877, c. 39, s. 28; c. 41, s. 9.

Jurisdiction to
be exercised in
name of High
Court.

41. The several jurisdictions vested in the said High Court, shall not be exercised except in the name of the said High Court as provided by this Act, save as otherwise in this Act provided. 44 V. c. 5, s. 10.

Jurisdiction
to be exer-
cised accord-
ing to rules of
Court.

42. The jurisdiction of the High Court of Justice and the Court of Appeal, respectively, shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by Rules and Orders of Court now in force or to be made pursuant to this Act; and where no special provision is contained in this Act or in any such Rules or Orders with reference thereto, it shall be exercised as nearly as may be in the same manner as prior to the 22nd day of August, 1881. 44 V. c. 5, s. 12.

JURISDICTION OF COURT OF APPEAL.

Jurisdiction of
Court of
Appeal.

43. The Court of Appeal shall be a Superior Court of Record and shall have appellate jurisdiction in civil and criminal cases; and in civil cases shall have jurisdiction and power to hear and determine appeals from any judgment or order, save as hereinafter mentioned, of the High Court, or of any Judges thereof, subject to the provisions of this Act, and to such Rules and Orders of Court for regulating the terms and conditions on which appeals shall be allowed, as are now in force or to be made pursuant to this Act. 44 V. c. 5, s. 13.

44. The Court of Appeal shall also have jurisdiction, as The same. provided elsewhere in these Revised Statutes, and generally shall have all the jurisdiction and power which the said Court has heretofore had (save as varied by or under this Act.)

1. In appeals from County and District Courts, as provided Rev. Stat. cc. 47, 137. in *The County Courts Act*, and *The Act respecting Infants*.

2. In appeals from Surrogate Courts, as provided in *The Surrogate Courts Act*. (See also Cap. 137, s. 19.) Rev. Stat. c. 50.

3. In appeals from Division Courts or a Surrogate Judge as provided in *The Division Courts Act*. 43 V. c. 8, s. 17; 47 V., c. 10, s. 9. Rev. Stat. c. 51.

4. In appeals from Provisional Judicial District Courts as provided in *The Unorganized Territories Act*. Rev. Stat. c. 91.

5. In appeals from Stipendiary Magistrates, as provided in section 31 of *The Unorganized Territories Act*. Rev. Stat. c. 91.

6. In appeals from a Judge of a County Court upon an appeal from a conviction or order arising out of or under *The Liquor License Act*, as provided in the said Act. 47 V. c. 34, s. 19. Rev. Stat. c. 194.

7. In appeals from a Judge of a County Court, as provided in *The Act respecting Water Privileges*. R. S. O. 1877, c. 38, s. 19. (See also Cap. 120, s. 15.) Rev. Stat. c. 119.

45. The Court of Appeal shall also have jurisdiction in Election cases, as provided by *The Voters' Lists Act*, *The Ontario Election Act* and *The Controverted Elections Act*. R. S. O. 1877, c. 38, s. 20; 45 V. c. 7, s. 7. Jurisdiction in election cases. Rev. Stat. cc. 8-10.

46. The Court of Appeal shall have power to quash proceedings in cases brought before it, in which appeal does not lie, or where such proceedings are taken against good faith. R. S. O. 1877, c. 38, s. 21. May quash proceedings when.

47. The Court shall have power to dismiss an appeal, or give any judgment and make any decree or order which ought to have been made, and to direct the issue of any process, or the taking of any proceedings in the Court below, or to award restitution and payment of costs, or to make such further or other order as the case may require. R. S. O. 1877, c. 38, s. 23. To make whatever order may be required.

48. The powers of the Court of Appeal may be exercised, notwithstanding that the appeal is brought against part only of the judgment of the Court below; and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from, or complained of the judgment. R. S. O. 1877, c. 38, s. 25; 45 V. c. 6, s. 7. Powers of Court of Appeal.

49. In any cause or matter pending before the Court of Appeal, any direction incidental thereto, not involving the decision of the appeal, may be given by a single Judge of the Court of Appeal; and a single Judge of the Court of Appeal may at any time during vacation make any interim order to Power of a single Judge in Court of Appeal.

prevent prejudice to the claims of any parties pending an appeal, as he may think fit; but every such order made by a single Judge may be discharged or varied by the Court of Appeal or a Divisional Court thereof. 44 V. c. 5, s. 41.

On an appeal from the High Court, Court of Appeal to have all powers of High Court.

50. For all the purposes of and incidental to the hearing and determination of any such appeal, and the amendment, execution, and enforcement of any judgment or order made on such appeal, and for the purpose of every other authority given to the Court of Appeal by this Act, the said Court of Appeal shall have all the power, authority and jurisdiction by this Act vested in the High Court. 44 V. c. 5, s. 14.

Jurisdiction subject to rules, etc.

51. The jurisdiction and power of the Court of Appeal, in respect of the said matters and all others, shall be and are subject to the provisions of this Act, and to such Rules and Orders of Court for regulating the terms and conditions on which such appeals shall be allowed, as are now in force or as may be made pursuant to this Act. 44 V. c. 5, s. 15.

RULES OF LAW.

Law and equity to be concurrently administered.

52. In every civil cause or matter commenced in the High Court of Justice, law and equity shall be administered by the High Court and the Court of Appeal respectively according to the Rules following:

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right which heretofore could only have been given by a Court of Equity, the said Courts respectively, and every Judge thereof, shall give to such plaintiff or petitioner such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purpose properly instituted before the passing of *The Ontario Judicature Act, 1881*. 44 V. c. 5, s. 16 (2).

2. The High Court shall have jurisdiction to entertain an action at the instance of either the Attorney-General for the Dominion, or the Attorney-General of this Province for a declaration as to the validity of any statute, or any provision in any statute of this Legislature, though no further relief should be prayed or sought; and the action shall be deemed sufficiently constituted if the two officers aforesaid are parties thereto. A judgment in the action shall be appealable like other judgments of the said Court. (See sec. 55.)

Jurisdiction as to validity of Provincial Statute.

3. (Subject to appeal as in other cases,) the High Court shall have power to relieve against all penalties, forfeitures and agreements, for liquidated damages, and in granting such relief to impose such terms as to costs, expenses, damages, compensation and all other matters as the Court thinks fit. Relief against penalties, etc.
 4. No appointment, which after the 25th day of March 1886, is made in exercise of a power to appoint any property real or personal among several objects, shall be adjudged to be invalid on the ground that any object of the power has been altogether excluded, and an appointment shall be valid and effectual notwithstanding that one or more of the objects shall not thereby or in default of appointment take a share or shares of the property which is subject to the power. Appointment under power.
- But nothing in this sub-section shall prejudice or affect any provision in any deed, will, or other instrument creating a power, which shall declare the amount or the share or shares from which no object of the power shall be excluded, or shall declare some one or more object or objects of the power who shall not be excluded. 49 V. c. 16, s. 38.
5. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right, whether any consequential relief is or could be claimed or not. 48 V., c. 13, s. 5. Declaratory judgments and orders.
 6. If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Courts respectively, and every Judge thereof, shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose before the passing of *The Ontario Judicature Act, 1881*. 44 V. c. 5, s. 16 (3). Equitable claims.
 7. The said Courts respectively, and every Judge thereof shall also have power to grant to any defendant in respect of any equitable estate or right, or

other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading, and as the said Courts respectively, or any Judge thereof, might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any rule of Court or any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim, as if he had been duly sued in the ordinary way by such defendant. 44 V. c. 5, s. 16 (4).

8. The said Courts respectively, and every Judge thereof shall recognize and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognized and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act. 44 V. c. 5, s. 16 (5).

Restraining
causes,

9. No cause or proceeding at any time pending in the High Court of Justice, or before the Court of Appeal, shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, prior to *The Ontario Judicature Act, 1881*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto:

Provided always, that nothing in this Act contained shall disable either of the said Courts from directing a stay of proceedings in any cause or matter pending before it, if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, prior to *The Ontario Judicature Act, 1881*, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any

judgment, decree, rule, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Courts respectively, by motion in a summary way, for a stay of proceedings in such cause or matter either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as shall be just. 44 V. c. 5, s. 16 (6).

10. If any action is brought in the High Court for any cause of action for which any suit or action has been brought and is pending between the same parties or their representatives in any place or country out of Ontario, the Court or any Judge thereof may make an order to stay all proceedings in the High Court until satisfactory proof is offered to the Court or Judge, that the suit or action so brought in such other place or country out of Ontario is determined or discontinued. R. S. O. 1877, c. 40, s. 98; c. 50, s. 72. Stay of proceedings if action for same cause is pending out of Ontario.
11. Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and the other express provisions of this Act, the said Courts respectively, and every Judge thereof, shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations, and liabilities existing by the Common Law or created by any statute, in the same manner as the same would have been recognized and given effect to, prior to *The Ontario Judicature Act, 1881*, by any of the Courts then existing and whose jurisdiction is now vested in the High Court. 44 V. c. 5, s. 16 (7). Giving effect to legal claims.
12. The High Court of Justice and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act in every cause or matter pending before them respectively, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to them shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided. 44 V. c. 5, s. 16 (8). Multiplicity of proceedings to be avoided.

All matters in controversy to be determined in one proceeding.

Rules of law upon certain points.

Statutes of Limitation not to apply to express trusts.

Equitable waste.

Merger.

Actions for possession of land by mortgagors.

Assignment of debts and choses in action.

Stipulations not of the essence of contracts.

53. The law to be administered in Ontario, as to the matters next hereinafter mentioned, shall be as follows:

1. No claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. 44 V. c. 5, s. 17 (2).
2. An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate. 44 V. c. 5, s. 17 (3).
3. There shall not be any merger by operation of law only of any estate, the beneficial interest in which would not prior to *The Ontario Judicature Act, 1881*, have been deemed, merged or extinguished in equity. 44 V. c. 5, s. 17 (4).
4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. 44 V. c. 5, s. 17 (5).
5. In case of an assignment of a debt or other chose in action, if the debtor, trustee, or other person liable in respect of the debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the High Court under and in conformity with the provisions of law for the relief of trustees. 44 V. c. 5, s. 17 (6).
6. Stipulations in contracts, as to time or otherwise, which would not before the passing of *The Ontario Judicature Act, 1881*, have been deemed to be or to have become of the essence of such contracts in a

Court of Equity, shall receive in all Courts the same construction and effect as they would, prior to the passing of said Act, have received in Equity. 44 V. c. 5, s. 17 (7).

7. Part performance of an obligation, either before or after a breach thereof, when expressly accepted by the creditor in satisfaction, or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. 48 V. c. 13, s. 6. Satisfaction of obligations by performance in part.
8. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court, in all cases in which it shall appear to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally, or upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable. 44 V. c. 5, s. 17 (8). Injunctions and receivers.
9. In all cases in which the Court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act, or for the specific performance of any covenant, contract, or agreement, the Court, if it thinks fit, may award damages to the party injured either in addition to or in substitution for such injunction or specific performance, and such damages may be ascertained in such manner as the Court may direct, or the Court may grant such other relief as it may deem just. R. S. O. 1877, c. 40, s. 40. Court may award damages, etc.
10. An order of the Court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice, or service. 49 V. c. 20, s. 20. Purchaser not affected by irregularities in orders of Court.
11. In questions relating to the custody and education of infants, the Rules of Equity shall prevail. Infants.

Cases of
conflict not
mentioned.

12. Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail. 44 V. c. 5, s. 17 (9, 10).

Rules of law
to apply to
all Courts.

54. The several rules of law enacted and declared by this Act shall be in force and receive effect in all Courts whatsoever in Ontario, so far as the matters to which such rules relate shall be respectively cognizable by such Courts. 44 V. c. 5, s. 80.

Notice to be
given to
Minister of
Justice and
Attorney-
General of
Ontario before
any Act is
declared
invalid.

55.—(1) When, in any action or other civil proceeding, the constitutional validity of any Act of the Parliament of Canada or of the Legislature of Ontario comes into question, the same shall not be adjudged to be invalid until after notice thereof has been served on the Minister of Justice and the Attorney-General of Ontario, or at their offices respectively.

(2) The notice in such case shall be entitled in the cause; shall state what the Act or section of an Act is which is in question, and the day on which the case or the said question is to be argued; and shall give such other particulars as are necessary to shew the constitutional point proposed to be argued.

(3) The notice shall be served six days before the day of the argument unless a Judge authorizes a shorter notice.

(4) Upon every such question the said Minister of Justice and the said Attorney-General shall be entitled as of right to be heard, either in person or by counsel, notwithstanding that the Crown is not a party to the action or proceeding. 46 V. c. 6, s. 6.

SITTINGS AND DISTRIBUTION OF BUSINESS.

Abolition of
terms.

56. The division of the legal year into Terms shall be abolished so far as relates to the administration of justice; and there shall not be Terms applicable to any sitting or business of the High Court, or of any commissioners to whom any jurisdiction may be assigned under this Act, or of any Commissioners of Assize; but in all cases in which, under the law existing prior to the 22nd day of August, 1881, the Terms into which the legal year was divided were used as a measure for determining the time at or within which any act was required to be done, the same may continue to be referred to for the same or the like purpose, unless and until provision is otherwise made by any lawful authority. 44 V. c. 5, s. 18.

Sittings of
Courts.

57.—(1) Subject to Rules of Court, the High Court of Justice, and the Court of Appeal, and the Judges thereof respectively, or any such commissioners as aforesaid, shall have power to sit and act, at any time and at any place, for the transaction

of any part of the business of such Courts respectively, or of such Judges or commissioners, or for the discharge of any duty which by any Statute, or otherwise, is required to be discharged. R. S. O. 1877, c. 38, s. 15 ; 44 V. c. 5, s. 19.

(2) Subject to the preceding provision the divisional sittings of the High Court shall be held at the City of Toronto. Where to be held. R. S. O. 1877, c. 39, s. 5 ; c. 40, s. 19.

58. The Lieutenant Governor in Council may from time to time, upon any report or recommendation of the Council of Judges of the Supreme Court hereinafter mentioned, make, revoke or modify, orders regulating the vacations to be observed by the High Court of Justice and the Court of Appeal, and in the offices of the said Courts respectively ; and any Order in Council made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act ; and Rules of Court may be made for carrying the same into effect in the same manner as if such Order in Council were part of this Act. 44 V. c. 5, s. 20. Vacations.

59. Commissions of assize or any other commissions, either general or special, may be issued, by the proper authority, assigning to the persons to be therein named, the duty of trying and determining within any place or district specially fixed for that purpose by such commission, any causes or matters, or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter, depending in the said High Court ; or the exercise of any civil or criminal jurisdiction capable of being exercised by the said High Court ; and any commission so issued shall be of the same validity as if it were enacted in the body of this Act ; and any commissioner or commissioners shall, when engaged in the exercise of any jurisdiction so assigned to him or them, be deemed to constitute a Court of the said High Court. 44 V. c. 5, s. 22. Commissions of Assize and other Commissions.

60. All causes and matters in the High Court shall be distributed among the several Divisions and Judges of the said High Court, in such manner as may from time to time be determined by any Rules of Court, or orders of transfer, to be made under the authority of this Act. 44 V. c. 5, s. 23. Rules of Court to provide for distribution of business.

61.—(1) Every action and proceeding in the High Court and all business arising out of the same, except as hereinafter provided, shall, so far as is practicable and convenient, be heard, determined, and disposed of, before a single Judge. Business to be disposed of by one Judge as far as practicable.

(2) A Judge sitting elsewhere than in a Divisional Court, is to decide all questions coming properly before him, and is not to reserve any case, or any point in a case, for the consideration of a Divisional Court.

(3) In all such cases any Judge sitting in Court shall be deemed to constitute a Court. 44 V. c. 5, s. 28.

Divisional
Courts of the
High Court.

62.—(1) All business which may from time to time be so ordered by Rules of Court shall be transacted and disposed of by Divisional Courts of the High Court, which shall for that purpose exercise all or any part of the jurisdiction of the said High Court.

(2) Any number of such Divisional Courts may sit at the same time.

(3) A Divisional Court of the High Court shall be constituted by two or three, and no more, of the Judges thereof; and, except when through pressure of business or any other cause it may not conveniently be found practicable, shall be composed of three such Judges.

(4) Every Judge of the High Court shall be qualified and empowered to sit in any of such Divisional Courts.

(5) But where the Divisional Court is constituted of two Judges only, such Court shall not hear or adjudicate upon any application against the judgment of either of such Judges.

(6) The President of every such Divisional Court of the High Court shall be the senior Judge of those present, according to the order of their precedence under this Act or otherwise. 44 V. c. 5, s. 29.

Constitution
of Divisional
Courts.

63. Divisional Courts shall, as far as may be found practicable and convenient, include one or more Judge or Judges attached to the particular Division of the said Court to which the cause or matter out of which such business arises has been assigned. 44 V. c. 5, s. 30.

Judges to
take part in
business of
any Division.

64.—(1) Subject to any Rules of Court, it shall be the duty of every Judge of the High Court who shall not for the time being be occupied in the transaction of any business specially assigned to him, or in the business of any other Divisional Court, to take part, if required, in the sittings of such Divisional Courts as may from time to time be deemed necessary for the transaction of the business of any of the Divisions of the High Court.

(2) All such arrangements as may be necessary or proper for that purpose, or for constituting or holding any Divisional Courts of the said High Court for any other purpose authorized by this Act, and also for the proper transaction of that part of the business of the said Divisions respectively which ought to be transacted by one or more Judges not sitting in a Divisional Court, shall be made from time to time under the direction and superintendence of the Judges of the said High Court;

(3) And in case of difference among them, in such manner as a majority of the said Judges shall determine. 44 V. c. 5, s. 31.

APPEALS.

65. No order made by the High Court or any Judge thereof, by the consent of parties, or as to costs only which by law are left to the discretion of the Court, shall be subject to any appeal, except by leave of the Court or Judge making such order. 44 V. c. 5, s. 32.

Orders not subject to appeal.

66. In any action respecting property or civil rights whether for damages or for specific relief, no appeal shall lie from the judgment or order of any Divisional Court or Judge of the High Court to the Court of Appeal without the special leave of the Judge or Divisional Court whose judgment or order is in question, or of the Court of Appeal unless the title to real estate or some interest therein or the validity of a patent is affected; or unless the matter in controversy on the appeal exceeds the sum or value of \$200, exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights. 44 V. c. 5, s. 33; 48 V. c. 13, s. 7.

Limitation of appeal where amount does not exceed \$200.

67. In any action respecting property or civil rights, whether for damages or for specific relief, in case there has been no difference of opinion among the Judges of the Divisional Court as to any order of such Court, or where on a motion to set aside or discharge a rule, order, or decision of a Judge, the order of the Divisional Court did not substantially vary the rule, order, or decision moved against, no appeal shall lie from the order of the Divisional Court of the High Court to the Court of Appeal without such leave as aforesaid, unless the title to real estate or some interest therein or the validity of a patent is affected; or unless the matter in controversy on the appeal exceeds the sum or value of \$500, exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights. 44 V. c. 5, s. 34; 48 V. c. 13, s. 7.

Limitation of appeal where amount does not exceed \$500.

68. There shall be no appeal to a Divisional Court from any interlocutory order, whether made in court or chambers, in case prior to *The Ontario Judicature Act, 1881*, there would have been no relief from a like order by an application to a Superior Court; and there shall be no appeal to the Court of Appeal from any interlocutory order in case prior to *The Ontario Judicature Act, 1881*, there would have been no relief from a like order by an appeal to the Court of Appeal. Any doubt which may arise as to what orders, or judgments, are interlocutory, shall be determined by the Court of Appeal. 44 V. c. 5, s. 35.

Appeals from interlocutory orders.

Discharging orders made by a single Judge.

69. Save as aforesaid, every rule, order, or decision made by a Judge of the said High Court in chambers, may be set aside or discharged upon notice by any Divisional Court; and no further appeal shall lie to the Court of Appeal from the Divisional Court unless by special leave of the said Court or of the Court of Appeal. 44 V. c. 5, s. 36; 49 V. c. 16, s. 39; 50 V. c. 8, Sched.

Appeal from decision of a Divisional Court, or a Judge in Court.

70. Save as aforesaid and subject to the other provisions of this Act, any judgment, rule, order or decision of a Divisional Court, or of a Judge in Court, may be appealed against to the Court of Appeal. R.S.O. 1877, c. 38, s. 18; 44 V. c. 5, ss. 13, 37.

No appeal unless proper notice and security given.

71. No appeal to the Court of Appeal shall be allowed unless notice thereof is given in writing to the opposite party and to the Registrar of the Division in which the proceedings are filed, within one month after the judgment complained of, or within such further time as the High Court, or a Judge thereof, may allow; nor unless within three months after the judgment complained of or within such further time as the Court or Judge aforesaid may allow, the appellant gives proper security to the extent of \$400 to the satisfaction of the said Court or a Judge, that he will effectually prosecute his appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is in whole or in part affirmed. 44 V. c. 5, s. 38.

Execution may be superseded, or payment of money levied be withheld.

72. If at the time of the receipt by the Sheriff of a *fiat* to stay execution, or of a copy thereof, the money has been made or received by him but not paid over to the party who issued the execution, the party appealing may demand back from the Sheriff the amount made or received under the execution, or so much thereof as is in his hands not paid over, and in default of payment by the Sheriff upon such demand, the appellant may recover the same from him in an action for money had and received. R. S. O. 1877, c. 38, s. 29.

LIMITATION OF TIME FOR APPEALING.

Time within which appeals from judgments or decretal orders must be brought to a hearing.

73. Subject to the provisions of this Act all appeals from a judgment, decision, rule or decretal order of the High Court, shall be brought to hearing within one year after the giving of the judgment, decision, rule or order, or within such further time as the Court of Appeal may allow. R. S. O. 1877, c. 38, ss. 45, 48; 44 V. c. 5, s. 39.

Time within which appeals from interlocutory orders must be brought to a hearing.

74. If the appeal is from an interlocutory order, not being a decretal order, then the appellant shall bring the same to a hearing within six months from the pronouncing of the same, or within such further time as may be allowed for the purpose by the Court of Appeal, upon special grounds shewn to the satisfaction of the Court or Judge granting the same. R. S. O. 1877, c. 38, s. 47; 44 V. c. 5, s. 39.

75. The time limited for appealing from a judgment or order which, under any General Orders of the Court of Chancery still remaining in force, does not become absolute upon the same being pronounced, shall be computed from the time when the same does become absolute. R. S. O. 1877, c. 38, s. 47; 44 V. c. 5, s. 39.

Time to be reckoned from the judgment or order becoming absolute.

TRIAL AND PROCEDURE.

76. In actions of libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution and false imprisonment, all questions which might heretofore have been tried by a jury, shall be tried by a jury, unless the parties in person or by their solicitors or counsel, waive such trial. R. S. O. 1877, c. 50, s. 252.

Certain actions for torts to be tried by a jury.

77. Subject to Rules of Court, all causes, matters and issues, over the subject of which prior to *The Administration of Justice Act* of 1873, the Court of Chancery had exclusive jurisdiction, shall be tried without a jury, unless otherwise ordered. R. S. O. 1877, c. 40, s. 99. See 44 V. c. 5, s. 45.

Cases formerly within exclusive jurisdiction of Court of Chancery.

78.—(1) Subject to Rules of Court, all causes, matters and issues other than aforesaid, and the assessment or enquiry of damages therein may, and (subject to the provisions of section 80) in the absence of such notice as is in sub-section 2 of this section mentioned shall be heard, tried and assessed by a Judge without a jury.

Other issues to be tried and damage assessed by Judge alone.

(2) If any of the parties desires the issues of fact to be tried or damages to be assessed or enquired of by a jury, he shall, at least eight days before the sittings at which the action is to be tried, or within such other time as may be ordered by the Court or a Judge, file and serve on the opposite party a notice in writing to the effect following, that is to say:

Unless jury notice given or Court or Judge otherwise directs.

“The Plaintiff (or one or more of them or the Defendant, or one or more of them, as the case may be) requires that the issues in this cause be tried (or the damages assessed) by a jury,”

and a copy of the notice shall be attached to the record or certified copy of the pleadings prepared for the Judge. R. S. O. 1877, c. 50, s. 253; 44 V. c. 5, s. 45.

79.—(1) Where any one of the parties has given such notice requiring a jury, the issues of fact therein shall (subject to the provisions of section 80) be tried and determined or the damages assessed by the unanimous verdict of twelve jurors duly sworn for the trial of such issues or for the assessment of such damages.

Effect of notice requiring a jury.

(2) The parties present at the trial may consent that the said notice shall be waived, and the case tried and damages assessed by the Judge, and may endorse a memorandum of such consent upon the record, and thereupon the Judge may try the

Parties may waive notice.

issues or assess the damages without a jury. R. S. O. 1877, c. 50, s. 254.

Judge may direct trial by jury, or without a jury.

80. Notwithstanding anything in the next preceding two sections contained, the Judge presiding at the trial may in his discretion direct that the action or issues shall be tried or the damages assessed by a jury; and upon application to the Court in which the action is pending, or to a Judge thereof, by an order made before the trial, or by the direction of the Judge presiding at the trial, the issues may be tried and damages assessed without a jury. R. S. O. 1877, c. 50, s. 255.

PLEADINGS IN ACTIONS ON FOREIGN JUDGMENTS.

Suit upon judgment in Quebec, where service was personal.

81. In any suit brought in Ontario on a judgment or decree obtained in the Province of Quebec in a suit in which the service of process on the defendant or party sued has been personal, no defence that might have been set up to the original suit shall be pleaded to that brought on the judgment or decree. R. S. O. 1877, c. 50, s. 145.

Suit upon judgment in Quebec, where the service was not personal.

82. In any suit brought in Ontario on a judgment or decree obtained in the Province of Quebec in a suit in which personal service was not obtained and in which no defence was made, any defence that might have been set up to the original suit may be made to the suit on the judgment or decree. R. S. O. 1877, c. 50, s. 146.

VERDICT.

Court may direct jury to give a special verdict, except in actions for libel.

83. Upon a trial by a jury, where the Court or the presiding Judge otherwise directs, it shall not be lawful for the jury to give a general verdict, and it shall be the duty of the jury to give a special verdict if the Court or presiding Judge so directs; and unless the Court or the presiding Judge otherwise directs, the jury may give either a general or a special verdict; but this section shall not apply to actions of libel. R. S. O. 1877, c. 50, s. 263.

In certain cases the jury may be directed to answer questions, and on the answers the Judge shall enter verdict.

84. Upon a trial by jury, in any case except an action for libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution, and false imprisonment, the Judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact stated to them by the Judge for the purpose; and in such case the jury shall answer such questions, and shall not give any verdict; and on the finding of the jury upon the questions which they answer, the Judge shall direct judgment to be entered. R. S. O. 1877, c. 50, s. 264.

INTEREST.

Interest may be allowed where it has been usual.

85. Interest shall be payable in all cases in which it is now payable by law, or in which it has been usual for a jury to allow it. R. S. O. 1877, c. 50, s. 266.

86.—(1) On the trial of any issue, or any assessment of damages, upon any debt or sum certain, payable by virtue of a written instrument at a certain time, interest may be allowed to the plaintiff from the time when the debt or sum became payable. When allowed on debts certain and over due.

(2) If payable otherwise than by virtue of a written instrument at a certain time, interest may be allowed from the time when a demand of payment is made in writing, informing the debtor that interest will be claimed from the date of the demand. R. S. O. 1877, c. 50, s. 267.

87. In actions for conversion of goods or for trespass *de bonis asportatis*, the jury may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon. R. S. O. 1877, c. 50, s. 268. When by way of damages in certain actions.

88. Unless it is otherwise ordered by the Court, a verdict or judgment shall bear interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, notwithstanding that the entry of judgment upon the verdict, or upon the giving of the judgment, shall have been suspended by any proceedings in the action, whether in the court in which the action is pending or in appeal. R. S. O. 1877, c. 38 s. 43; c. 50 s. 269; 47 V. c. 10, s. 4. Interest on judgments

SITTINGS.

89.—(1) Subject to rules of Court, as often in every year as the due despatch of business and the public convenience may require there shall be sittings of the High Court at every county town for the trial of causes, matters and issues, whether legal or equitable, in all Divisions of the High Court, which are to be heard and determined by a Judge without a jury, and also for the trial of causes, matters and issues in all Divisions of the High Court which are to be tried with a jury, and for the trial of criminal matters and proceedings; and in case such first mentioned sittings are appointed at any county town for the same time and before the same Judge as jury cases, separate lists shall be made of the jury and non-jury cases, and the jury cases shall first be disposed of, unless the Judge sees fit to direct otherwise. 44 V. c. 5, s. 46; 48 V. c. 13, s. 14. Sittings for trial of causes.

(2) The Judges of the Supreme Court of Judicature, or a majority of them, shall appoint the days upon which such sittings shall be held. R. S. O. 1877, c. 40, s. 24; c. 41, s. 2.

90.—(1) Sittings of the High Court for the trial of causes, matters and issues shall be held at the county town of every county and union of counties in each year between the Judges to appoint days for holding Courts of Assize.

Hilary and Easter sittings of the High Court, and between the 1st day of September and the Michaelmas sittings. R. S. O. 1877, c. 41, s. 1.

(2) One such sittings shall ordinarily be held in each year at Sault Ste. Marie and at Port Arthur, respectively, on such days as may from time to time be appointed therefor by the Judges of the Supreme Court of Judicature, or a majority of them, but if the said Judges, on inquiry, ascertain on any occasion that any such sittings is not required for the administration of justice, it shall not be necessary to appoint a day for the holding thereof. 47 V. c. 14, s. 13.

(3) In addition to the said sittings so to be held at the county town of the County of York, there shall in every year be held at such county town a third such sittings between the said Michaelmas and Hilary sittings, and a fourth such sittings between the said Easter sittings and the 1st day of July. R. S. O. 1877, c. 41, s. 1.

(4) In addition to the sittings so to be held at the county towns of the Counties of Wentworth and Middlesex, there shall be held at each of such county towns a third such sittings for the trial of civil causes, matters and issues and criminal matters and proceedings, or of civil causes, matters and issues only, in each and every year between said Michaelmas and Hilary sittings. R. S. O. 1877, c. 41, s. 1; 48 V. c. 13, s. 14.

(5) In addition to the regular sittings to be held under sub-section 1 of this section, a third such sittings may be appointed if the Judges of the Supreme Court, or a majority of them, shall see fit for the trial of civil causes, matters and issues and criminal matters and proceedings, or of civil causes, matters and issues only, to be held at the county town of any county in the Province between said Michaelmas and Hilary sittings of the High Court. 48 V. c. 13, s. 14.

Judges may appoint sittings in any County for issues to be tried without a jury.

91. The Judges of the Supreme Court may appoint sittings of the High Court in any county in the Province, as often and at such times as they see fit, for the trial of causes which are to be tried by a Judge without a jury. R. S. O. 1877, c. 41, s. 5.

Separate sittings for civil and criminal matters.

92. The sittings of the High Court for the trial of civil causes, matters and issues in any county may, in the discretion of the Judges appointing the days therefor, or of the Judge who has been appointed to preside or is presiding thereat, be held separate and apart from the sittings for the trial of criminal matters and proceedings, either on the same day or on a different day. R. S. O. 1877, c. 41, s. 3.

Place in County Town where Court to be held.

93. Such sittings may, at the discretion of the Court or of the Judge who is to hold the same, be held in the court house of the county town in which the same are appointed to be held, or in such other place in the county town

as the Judge selects; and the Judge shall in all respects have the same authority as a Judge formerly had when sitting at Nisi Prius in regard to the use of the court house, gaol and other buildings or apartments set apart in the County for the administration of justice. R. S. O. 1877, c. 40, s. 26.

94.—(1) Such sittings shall be presided over by one of the Judges of the Supreme Court; or in their absence by a retired Judge of the Supreme Court or by a Judge of any County Court in Ontario, or by one of Her Majesty's Counsel learned in the law appointed for Upper Canada, or for the Province of Ontario, upon such Judge or Counsel being requested by a Judge of the Supreme Court to attend for that purpose. R. S. O. 1877, c. 41, s. 6.

Who may
preside.

(2) Such Judge or Counsel while holding the sitting shall possess, exercise and enjoy all the powers and authorities of a Judge of the High Court, and in civil proceedings may reserve the giving of his decision on questions raised at the trial; and such decision shall have the like force and effect as the decision of a Judge of the High Court. R. S. O. 1877, c. 40, s. 27; c. 41, s. 8.

ABSENCE OF JUDGE AT THE OPENING OF ASSIZES.

95. Where the Judge whose duty it is to hold any Court of Assize and Nisi Prius, or of Oyer and Terminer or General Gaol Delivery, does not arrive in time, or is not able to open such Court on the day appointed for that purpose, the Sheriff of the county in which such Court should be holden, or, in his absence, his Deputy, may, after the hour of six of the clock in the afternoon of such day, adjourn by his proclamation, the Court which should have been opened on that day, to an hour on the following day to be by him named, and so from day to day until the Judge arrives to open such Court, or until such Sheriff receives other direction from the Judge in that behalf. R. S. O. 1877, c. 41, s. 11.

Course to be
pursued by
the Sheriff if
the Judge of
Assize does
not arrive on
the day ap-
pointed for
opening
Court.

TRIAL OF SUPERIOR COURT CASES IN COUNTY COURTS, AND COUNTY COURT CASES BEFORE HIGH COURT.

96.—(1) All issues of fact and assessments of damages in the High Court relating to debt, covenant and contract, where the amount is liquidated or ascertained by the signature of the defendant, may be tried and assessed in the County Court of the county where the trial is to take place, if the plaintiff desires it, unless a Judge of the High Court otherwise orders, and upon such terms as he deems meet.

Certain cases
in High Court
may be tried in
the County
Court of the
County in
which the
venue is laid.

(2) In such case the action shall be entered for trial, notice of trial shall be given, and the trial take place in the same way as in ordinary cases in such County Court.

Certain cases in the High Court may be sent to be tried at the County Court of the County in which the action is brought.

Proceedings in such case.

(3) In any action in the High Court, in which the amount of the demand is ascertained by the signature of the defendant, and in any action for any debt in which a Judge of the said High Court is satisfied that the case may safely be tried in a County Court, any Judge of the High Court may order that such case shall be tried in the County Court of the county where such action was commenced, and such action shall be tried there accordingly, and the record shall be made up as in other cases; and the order directing the case to be tried in the County Court shall be left with the clerk of the County Court on entering the action for trial, annexed to the certified copy of the pleadings for the Judge; and the trial shall take place in the same way as in ordinary cases in such County Court. R. S. O. 1877, c. 49, s. 31.

By order County Court cases may be tried at High Court sittings.

97.—(1) By the order of a Judge of the High Court, made upon such terms as the Judge may consider just, the issues of fact and assessment of damages in any action pending in a County Court may be tried and assessed at the sittings of the High Court at any county town.

(2) In such cases the action shall be entered and the case tried as in ordinary cases. R. S. O. 1877, c. 49, s. 32.

Powers of County Court as to awards when Judge refers to arbitration, &c.

98. Where any such cause is referred by the presiding Judge at such sittings, the County Court in which the action is brought, and the Judge thereof, shall have the same power to enforce any award, report or certificate made on the reference, and to make rules and orders upon appeals therefrom and motions relating thereto, as if the order referring the case had been made by the County Judge. R. S. O. 1877, c. 49, s. 40.

Books for Judge's notes of trial, etc.

99. The Clerks of the several County Courts shall provide books in which the Judges presiding at the sittings of the High Court, where cases brought in any County Court are tried or assessed under this Act, may enter their notes of such trials and assessments; and such books, immediately after the trials or assessments, shall be returned to the said Clerks and shall remain in their offices. R. S. O. 1877, c. 49, s. 41.

Fees to officers.

100. The jury fees and the fees and charges payable and pertaining to officers of the County Courts, upon all actions or proceedings brought in the County Courts, and tried or assessed in the High Court, shall be chargeable and paid as if the same were being tried or assessed in the County Courts; and no other fees shall be chargeable thereon, and the Clerk of a County Court shall be entitled to receive and take such part thereof as pertains to him, to his own use. R. S. O. 1877, c. 49, s. 44.

OFFICIAL REFEREES AND ASSESSORS.

101.—(1) Subject to any Rules of Court and to such right as References and assessors. may exist to have particular cases submitted to the verdict of a jury, any question arising in any cause or matter before the High Court of Justice or before the Court of Appeal, may be referred by the Court or by any Divisional Court or Judge before whom such cause or matter may be pending, for inquiry and report to a Judge of a County Court, or to an official referee, or to any other person agreed on by the parties; and the report of such referee may be adopted wholly or partially by the Court, and may (if so adopted) be enforced as a judgment by the Court.

(2) The High Court, or any Divisional Court or Judge as aforesaid, or the Court of Appeal, may also, in any such cause or matter as aforesaid in which it may think it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors.

(3) The remuneration, if any, to be paid to such referees or assessors shall be determined by the Court. 44 V. c. 5, s. 47.

102.—(1) In any cause or matter before the said High Court, Power to direct trials before referees. (1) in which all parties interested who are under no disability consent thereto, and (2) without such consent in any such cause or matter requiring any prolonged examination of documents or accounts, or any scientific or local investigation which cannot, in the opinion of the Court or a Judge conveniently be made before a jury, or conducted by the Court or Judge directly, the Court or a Judge may at any time, on such terms as may be thought proper, order any question or issue of fact, or any question of account arising in the cause or matter, to be tried either before a Judge of a County Court, or before an official referee, or (if the parties so agree) before a special referee.

(2) All such trials before referees shall be conducted in such manner as may be prescribed by Rules of Court, and subject thereto in such manner as the Court or Judge ordering the same shall direct. 44 V. c. 5, s. 48.

103. In all cases of a reference to or trial by referees under this Act, the referees shall be deemed to be officers of the Court, and shall have such authority for the purpose of the reference or trial as shall be prescribed by Rules of Court, or (subject to such Rules) by the Court or Judge ordering such reference or trial; and the report of any referee upon any question of fact on any such trial shall, unless set aside by the Court, be equivalent to the verdict of a jury. 44 V. c. 5, s. 49. Power of referees and effect of their findings.

Powers of Court with respect to proceedings before referees. Rev. Stat., c. 53.

104. With respect to all such proceedings before referees and to their reports, the Court or Judge shall have, in addition to any other powers, the like powers as by *The Act respecting Arbitrations and References* are given to the High Court with respect to references to arbitration and proceedings before arbitrators and their awards and appeals therefrom respectively. 44 V. c. 5, s. 50.

RULES OF COURT.

Judges of Supreme Court may make Rules.

105.—(1) The Supreme Court may at any time, with the concurrence of a majority of the Judges thereof present at any meeting held for that purpose, alter and annul any Rules of Court for the time being in force, and may make any further or additional Rules of Court for carrying this Act into effect, and in particular for all or any of the following matters that is to say:—

- (a) For regulating the sittings of the High Court of Justice and the Court of Appeal, and of any Divisional or other Courts thereof respectively, and of the Judges of the said High Court sitting in Chambers;
- (b) For regulating the pleading, practice, and procedure in the High Court of Justice and Court of Appeal;
- (c) For the hearing of appeals from County Courts, or a Judge of a County Court, from Provisional Judicial District Courts or a Judge of such Court, from Surrogate Courts, Stipendiary Magistrates, or Division Courts, by any two or more of the Judges of the Supreme Court, instead of the same being heard by the Court of Appeal, or a Judge thereof, (as the case may be); and for regulating the selection of the Judges of the Supreme Court, who shall hear such appeals, and for regulating all matters relating to the practice on such appeals; 44 V. c. 5, s. 54 (1 a-c. 3).
- (d) For empowering the Master in Chambers, or any referee sitting for him, or the Judges of the County Courts, other than the Judge of the County of York, or the Local Masters in respect of actions brought in their counties, to do any such thing, and to transact any such business, and to exercise any such authority and jurisdiction in respect of the same as by virtue of any statute or custom, or by the rules of practice of the High Court, are now or may be hereafter done, transacted or exercised by a Judge of the High Court sitting at Chambers, and as shall be specified in any such rule, except in respect of matters relating to—

To empower Master in Chambers, etc., to make orders.

1. The liberty of the subject;

2. Appeals and applications in the nature of appeals ;
3. Proceedings under *The Act respecting Lunatics* ; Rev. Stat., c. 54.
4. Applications for advice under the *Trustee Acts* ; Rev. Stat., c. 110.
5. Matters affecting the custody of children ; and
6. Proceedings under section 32 of this Act. R. S. O. 1877, c. 39, s. 32 ; c. 40, s. 28 ; 48 V. c. 13, ss. 13, 21.

(e) Generally, for regulating any matters relating to the practice and procedure of the said Courts respectively, or to the duties of the officers thereof, or of the said Supreme Court, or to the costs of proceedings therein ; and every other matter deemed expedient for the better attaining the ends of justice, advancing the remedies of suitors, and carrying into effect the provisions of this Act and of all other Acts now or hereafter in force respecting the said Courts. 44 V. c. 5, s. 54 (1 d).

(f) Subject to the approval of the Lieutenant-Governor in Council, to make rules from time to time regulating all fees payable in stamps. 44 V. c. 5, s. 54 (2).

(2) Where any provisions in respect of the practice or procedure of any Courts, the jurisdiction of which is vested by this Act in the High Court, are contained in any Statute, Rules of Court may be made for modifying such provisions to any extent that may be deemed necessary for adapting the same to the High Court, unless, in the case of any Act hereafter passed, this power shall be expressly excluded. 44 V. c. 5, s. 54 (6).

(3) Any provisions relating to the payment, transfer, or deposit into, or in, or out of any Court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure. 44 V. c. 5, s. 54 (7).

(4) All Rules of Court made in pursuance of this section shall from and after they come into operation, regulate all matters to which they extend, until annulled or altered in pursuance of this section. 44 V. c. 5, s. 54 (4).

106. Subject to any Rules of Court which may be made under the provisions of the preceding section the Judges of the Court of Appeal or a majority of them, may from time to time make such General Rules and Orders, for fixing the costs to be allowed in respect of proceedings in the said Court, and for regulating the different proceedings in appeal, and generally for the effectual execution of this Act and the intention and object thereof in regard to the practice in appeals as to them may seem expedient ; and may also from time to time alter

Judges of Court of Appeal may make Rules.

and amend any of the existing Rules, or any Rules made under the authority of this Act, and make other Rules instead thereof; and until such Rules are made, the present Rules and the existing practice and mode of proceeding in the Court shall continue in force. See R. S. O. 1877, c. 38, s. 56; 44 V. c. 5, s. 54 (5).

Judges of High Court may make Rules.

107. The Judges of the High Court or any four of them of whom two of the Presidents of the Divisions of the High Court shall be two, shall as regards matters in the High Court have power to make General Rules from time to time for the regulation of the practice of the High Court. R. S. O. 1877, c. 49, s. 45; 44 V. c. 5, s. 54 (5).

Lieut-Governor in Council may authorize certain Judges to make Rules.

108. The Lieutenant-Governor in Council may from time to time authorize the following persons, viz.: the Chief Justice of Ontario, the Chief Justice of the Queen's Bench, the Chancellor, the Chief Justice of the Common Pleas, and any one or more of the other Justices of the Supreme Court, to make Rules of Court under this Act; every such appointment to continue for such time as shall be specified by Order in Council, and the Judges so appointed, or any three of them, may make such Rules, and the same shall have the same effect as if made by all the Judges of the Supreme Court, under section 105. 44 V. c. 5, s. 55.

Council of Judges to consider procedure and administration of Justice.

109. A Council of the Judges of the said Supreme Court, of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lieutenant-Governor, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Courts respectively, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the High Court of Justice or the Court of Appeal, or any other Court, or by any other authority; and they shall report annually to the Lieutenant-Governor what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provision (if any) which cannot be carried into effect without legislative authority it would be expedient to make for the better administration of justice; an Extraordinary Council of the said Judges may also at any time be convened by the Lieutenant-Governor. 44 V. c. 5, s. 56.

Provision for saving of existing procedure where not inconsistent with this Act or Rules of Court.

110. Save as by this Act or by any Rules of Court may be otherwise provided, all forms and methods (as nearly as may be) of procedure which, prior to the 22nd day of August, 1881, were in force in any of the Courts whose jurisdiction then became vested in the said High Court, under and by virtue of any law, general order, or rule whatsoever, and which

are not inconsistent with this Act or with any Rules of Court—may continue to be used and practised in the said High Court of Justice, in such and the like cases, and for such and the like purposes, as those to which they would have been applicable prior to the said date in the respective Courts of which the jurisdiction became so vested. 44 V. c. 5, s. 52.

OFFICERS AND OFFICES.

111.—(1) The Lieutenant-Governor in Council may from time to time appoint a suitable person to be the Registrar of the Court of Appeal. Registrar may be appointed for the Court of appeal.

(2) The said Registrar shall not take for his own use or benefit, directly or indirectly, any fee or emolument save the salary to which he is entitled by law; and all fees received by him on account of the said office shall form part of the Consolidated Revenue Fund, and shall be payable in stamps, subject to *The Act respecting Law Stamps*. R. S. O. 1877, c. 38, s. 11. Fees of Registrar to form part of Con. Rev. Fund. Rev. Stat. c. 22.

112.—(1) The Lieutenant-Governor may from time to time appoint a Master in Ordinary, a Master in Chambers, an Accountant of the Supreme Court and two or more Taxing Officers. R. S. O. 1877, c. 40, s. 8; 44 V. c. 5, Rule 438. Appointment of Masters, etc.

(2) Subject to orders of the Lieutenant-Governor in Council, the said officers and the Local Masters shall be officers of the Supreme Court and attached thereto. 44 V. c. 5, s. 58 (2).

113. The Lieutenant-Governor may from time to time appoint one Clerk of the Process for the High Court, one Registrar for each of the Divisions of the High Court; and one Clerk of Records and Writs and one Assistant Registrar, to be attached to the Chancery Division; and also such other clerks and officers as the business of the Court may, from time to time, require; and such officers and clerks shall, in addition to any of the duties usually performed by the like officers and clerks, perform such duties as may by Rules of the Supreme Court or the High Court be provided, or as the Division of the High Court to which such officers are attached, may from time to time direct. R. S. O., 1877, c. 39, s. 36; c. 40, s. 8. Appointment of Clerk of Process, etc. Duties.

114.—(1) Subject to Orders of the Lieutenant-Governor in Council, all officers attached to the various Divisions of the High Court shall remain and continue to be attached to the Divisions respectively to which they are now attached. 44 V. c. 5, s. 58 (1). Officers to remain attached to their several divisions.

(2) Where a doubt exists as to the position under this Act of any existing officer attached to any Court or Judge affected by this Act, such doubt may be determined by Rule of Court.

(3) The Lieutenant-Governor in Council shall have the power and (subject to any Order in Council) the Judges of the said Supreme Court shall have power to change the official names of offices and officers, and to change and regulate the duties of the officers. 44 V. c. 5, s. 58 (4).

Distribution
of business
among
officers.

115. Subject to any Order in Council in that behalf, the business to be performed in the High Court and in the Court of Appeal respectively, or in any Divisional or other Court thereof, or in the chambers of any Judge thereof, other than that performed by the Judges, shall be distributed among the several officers attached to the said Courts by the preceding section in such manner as may be directed by Rules of Court; and such officers shall perform such duties in relation to such business as may be directed by Rules of Court; and, subject to such Order in Council and Rules of Court, all such officers respectively shall continue to perform the same duties, as nearly as may be, and in the same manner as if this Act had not passed. 44 V. c. 5, s. 59.

116.—Orders made by the Master in Chambers, or other officer mentioned in sub-section (d) of section 105, shall be as valid and binding on all parties concerned as if made or given by a Judge in Chambers. R. S. O. 1877, c. 39, s. 31; c. 40, s. 29.

Oath of
officers.

117.—(1) Every officer of the Court hereafter appointed before he enters upon his duties shall take and subscribe the following oath:

“I, A. B. of——, do hereby solemnly swear that I will, according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfil the duties of the office of (*as the case may be*) without favour or affection, prejudice or partiality, to any person or persons whomsoever. So help me God.”

(2) When not convenient to a person appointed to any office to attend at Toronto to take the oath of office, the oath may be taken before the Judge of the County Court of the County in which the officer resides, or before a Commissioner authorized to administer affidavits in such County, and the oath shall be certified by the Judge or Commissioner and filed amongst the records of the Court at Toronto. In all other cases the oath shall be administered to the officer by the Judge in open Court. 44 V. c. 5, s. 61.

Officers to
give security.

118. The Clerk of the Process, the Registrars of the Queen's Bench and Common Pleas Divisions, and the Deputy Clerks of the Crown and Pleas, shall, within one month next after their appointment, give security to Her Majesty, in such sum, and with so many sureties, and in such form as the Lieu-

tenant-Governor in Council directs, conditioned respectively, for the due performance of the duties of their office. R. S. O. 1877, c. 39, s. 38.

119. The neglect by any such Registrar or Deputy Clerk to give such security shall render his appointment void; but the forfeiture of office shall not affect any act done by him during the time he actually continues to hold his appointment. R. S. O. 1877, c. 39, s. 39.

Consequences of neglecting to do so.

120. The Lieutenant-Governor shall in his discretion approve of the security and sureties so given by each Registrar, and the Judge of the County Court having first certified his approval in writing, of the security and sureties given by the Deputy Clerk of the Crown for his County, the Lieutenant-Governor shall in his discretion approve of the security and sureties so given by such Deputy Clerk; and such securities, when executed and approved, shall be duly recorded in the manner provided by *The Act respecting Public Officers*, and shall then be deposited in the office of the Provincial Treasurer. R. S. O. 1877, c. 39, s. 40.

Who to approve of the sureties.

To be recorded and deposited as provided by Rev. Stat. c. 15.

121. The Registrars and the Clerk of the Process respectively shall keep their offices in Osgoode Hall, in the City of Toronto. R. S. O. 1877, c. 39, s. 42.

Offices to be at Osgoode Hall.

122. The Clerk of the Process shall keep the officers whose duty it is to issue writs and process, supplied with blank writs and process of all descriptions, to be filled up and issued by them; and he shall have a reasonable allowance for printing, procuring and transmitting blank forms of writs and process, and for necessary books and stationery. R. S. O. 1877, c. 39, s. 44.

To supply officers with blank writs.

123. The Clerk of the Process shall make to the Treasurer of the Province quarterly returns, verified by his affidavit, of all writs and process issued by him in actions brought at Toronto, or supplied by him to the Registrars and Deputy Clerks of the Crown to be issued by them. R. S. O. 1877, c. 39, s. 46.

The Clerk of Process to make quarterly returns.

124.—(1) Subject as aforesaid, the Judges of the County Courts, the Master in Ordinary, the Master in Chambers, the Registrars of the several Divisions of the High Court and the Local Masters shall be official referees for the trial of such questions as shall be directed to be tried by such referees.

Official referees.

(2) In case the business is found to require other or additional official referees, and the Presidents of the said Divisions so certify, the Lieutenant-Governor from time to time may appoint other and additional official referees accordingly.

(3) In the case of officers who are paid by salary, the fees on any reference or trial shall be paid in stamps; other referees shall be paid by fees. 44 V. c. 5, s. 63.

Local Masters, Deputy Registrars, and Deputy Clerks of the Crown. 125.—(1) There shall be a Local Master in every County or Union of Counties other than the County of York, and every Local Master hereafter appointed shall reside in the County for which he is appointed.

Local Masters. (2) When a vacancy occurs in the office of Local Master, the Judge of the County Court for the County shall be the Local Master until and unless another person is appointed Local Master. In such case if there are two County Judges, a Senior and Junior Judge, both Judges shall be Local Masters until and unless one of them or some other person is appointed sole Local Master. 44 V. c. 5, s. 64 (1, 2).

Deputy Clerks of the Crown. (3) Except in the County of York, the several Clerks of the County Courts shall be *ex officio* Deputy Clerks of the Crown and Pleas of the High Court for their County. R. S. O. 1877, c. 39, s. 37.

Deputy Registrars. (4) Where a County Court Judge is the Local Master, the County Court Clerk shall be the Deputy Registrar. 44 V. c. 5, s. 64 (3).

Local Registrars. (5) The offices of Deputy Clerk of the Crown and Deputy Registrar (not Local Master) shall be consolidated as vacancies occur in either; unless where the Presidents of the Divisions of the High Court or a majority recommend otherwise, when the said offices are held by the same person, he shall be styled Local Registrar of the High Court. 44 V. c. 5, s. 64 (4); 44 V. c. 5, Rule 417.

Fees of Deputy Clerks of the Crown. (6) Where a reference is made to a Deputy Clerk of the Crown, or an examination is taken by him, he shall be entitled to take and receive to his own use the fees on such reference or examination. 44 V. c. 5, s. 64 (5).

Commutation of fees of Local Masters. (7) The Lieutenant-Governor in Council may commute the fees of a Local Master, or of a Local Master and Deputy Registrar, including his fees as an official referee, for a fixed annual sum, such sum not to exceed the average income derived from fees for the preceding five years. 44 V. c. 5, s. 64 (6).

Commutation of fees of Deputy Clerks of the Crown. (8) The Lieutenant-Governor in Council may commute the fees payable to a Deputy Clerk of the Crown on references and examinations and other matters for a fixed annual sum, such sum not to exceed the average income derived from such fees during the preceding five years. 44 V. c. 5, s. 64 (7).

Amount of commutation may be changed. (9) Any annual sum fixed as provided in the preceding two sub-sections shall continue until varied by Order in Council, but any order for payment of any such annual sum as aforesaid may be rescinded, and the amount may by Order in

Council be increased or diminished, provided that in no case shall any Order in Council name a sum exceeding the average income or fees aforesaid (as the case may be) during the preceding five years. 44 V. c. 5, s. 64 (8).

(10) The Local Masters, Local Registrars, and Deputy Clerks, of the Crown, Deputy Registrars and other officers mentioned in this Act shall be appointed by the Lieutenant-Governor, and every such officer heretofore appointed shall hold office during the pleasure of the Lieutenant-Governor. 44 V. c. 5, ss. 58 (3), 64 (9); 47 V. c. 10, s. 7.

Appointments of officers.

(11) Where a Local Master, or Deputy-Registrar, or Deputy Clerk of the Crown, or other officer, is paid by a salary, he shall not, save as hereinbefore expressly provided, take for his own benefit, directly or indirectly, any fee or emolument, save the salary to which he may be entitled; but the like sums and fees heretofore payable on proceedings in his office shall continue to be payable; and all such fees shall form part of the Consolidated Revenue Fund of this Province, and shall be payable in stamps, subject to the provisions of *The Act respecting Law Stamps*. 44 V. c. 5, s. 64 (10).

Fees of salaried officers to form part of the Consolidated Revenue.

Rev. Stat., c. 22.

(12) No Local Master whose gross income from his office of Local Master or of Deputy Registrar and Local Master, is \$2,000 or upwards shall, during the continuance of his appointment, directly or indirectly, practise in the profession of the law as Counsel, or Solicitor, or as a Notary Public, or Conveyancer, or do any manner of conveyancing, or prepare any papers or documents to be used in any Court of this Province, under the penalty of forfeiture of office, and the further penalty of \$400, to be recovered by any person who sues for the same by action in the High Court, and one-half of such pecuniary penalty shall belong to the party suing, and the other half to Her Majesty for the use of the Province; but nothing in this section shall prevent the Lieutenant-Governor in Council, or the High Court, from requiring a Local Master whose income does not amount to \$2,000, to abstain from practising under the like penalties. 44 V. c. 5, s. 64 (11).

Local Masters not to practise in certain cases.

(13) The High Court may, with the concurrence of the Lieutenant-Governor, relieve any person now holding the office of Local Master and Deputy Registrar, or any other officer from the operation of the preceding sub-sections 1 and 12, or either of them. 44 V. c. 5, s. 64 (12).

High Court may except officers from sub-ss. 1 and 12.

(14) Every officer paid by fees shall yearly, and on or before the 15th day of January in every year, transmit to the Inspector of Legal Offices appointed under section 141 of this Act a just, true and faithful account, to be verified upon oath, of the amount of fees paid or payable to him in respect of his office during the preceding year. 44 V. c. 5, s. 64 (14); 47 V. c. 10, s. 16.

Returns of fees.

(15) The Lieutenant-Governor or the member of the Government having charge of the matter may require the return

Form of returns.

to state any particulars, or to be made in any form that may be thought proper, and such return shall be made accordingly. 44 V. c. 5, s. 64 (15).

Seals of Deputy Registrars and Deputy Clerks of the Crown.

126. In the office of every Deputy Registrar and Deputy Clerk of the Crown such seal shall be used as the Lieutenant-Governor shall from time to time direct, which seal shall be impressed on every writ and other document issued out of or filed in such office; and all such writs and documents, and all exemplifications and copies thereof, purporting to be sealed with the seal of any such Deputy Registrar or Deputy Clerk of the Crown, shall in all parts of this Province be received in evidence without further proof thereof. 44 V. c. 5, s. 51.

Marshal and Clerk of Assize for County of York.

127. The Lieutenant-Governor in Council may from time to time appoint a suitable person to be the Marshal and Clerk of Assize for the County of York, who shall hold office during pleasure. R. S. O. 1877, c. 41, s. 16 (1).

Remuneration of Deputy Clerks of the Crown when they act as marshals.

128. Every Marshal and Clerk of Assize, being a Deputy Clerk of the Crown or Local Registrar, or authorized to act as such shall be entitled to be paid out of the Consolidated Revenue Fund the sum of \$4 for each day's attendance as such Marshal or Clerk of Assize. R. S. O. 1877, c. 41, s. 18.

Not to receive fees in criminal cases.

129. No charge whatever shall be made by any of the said Marshals or Clerks of Assize upon any criminal trial or proceeding in any Court at which they act as Marshals and Clerks of Assize respectively. R. S. O. 1877, c. 41, s. 19.

Where Deputy Clerk's office to be kept.

130.—(1) Each Deputy Clerk of the Crown and Pleas shall, if proper accommodation is afforded him, keep his office in the Court House of his County, and until he can obtain such accommodation he shall keep his office in some convenient place in the County Town. R. S. O. 1877, c. 39, s. 47.

(2) Provided, however, that the Deputy Clerk of the Crown and Pleas at Sandwich, may keep an office in some convenient place in the Town of Windsor, in the County of Essex, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval thereof by the Lieutenant-Governor in Council. 49 V. c. 12, s. 1.

Official Guardian *ad litem*.

131.—(1) There shall be an Official Guardian *ad litem* of infants, who shall be appointed by the Lieutenant-Governor, and shall be a Barrister-at-Law and Solicitor of this Province, of not less than seven years' standing, and shall hold office during pleasure.

Duties of Guardian.

(2) The Official Guardian, besides acting as a Guardian *ad litem* of infants under Rules of Court and other orders, shall perform such other duties as a Divisional Court or Judge may from time to time direct.

(3) The same costs as hitherto shall be paid to the Guardian by any party; and the same costs as hitherto shall be payable to the Guardian out of funds in Court; but all costs so paid to the Guardian by any party shall be by such Guardian paid forthwith into Court with the privity of the Accountant of the Supreme Court, and shall be placed to the credit of an account to be intituled "Account of Official Guardian *ad litem*;" and all costs payable to the Guardian out of any funds in Court, shall be transferred to the credit of the same account.

Costs of
Guardian.

(4) Where the estate is small, and, in view of the amount at the credit of the said account, the amount or part of the amount payable out of the estate for the Guardian's costs does not appear to be required to pay the salary and disbursements of the Official Guardian, the Court may withhold payment out of such estate of the sum or any part of the sum due for the Guardian's costs in respect of such estate; and may distribute the estate as if such costs were not payable by or out of the same.

Costs where
estate is small.

(5) There shall be paid to the said Guardian in respect of all business done a fixed salary of such sum per annum as, in view of the amount of business done or to be done by the Guardian, and the sum at the credit of the account, the said Judges think reasonable and the Lieutenant-Governor in Council approve; which salary shall be over and above all necessary disbursements; and the salary and disbursements shall be paid monthly or otherwise as shall be determined by Rule of Court, out of the fund at the credit of the said account of Official Guardian *ad litem*, and not otherwise.

Salary of
Guardian.

(6) The surplus appearing from time to time at the credit of the said account beyond what may be required to pay the charges on the said account, shall be transferred to the "Suitors' Fee Fund Account."

Transfer of
surplus of
Guardian's
account.

(7) Where the Official Guardian has occasion to employ a solicitor in another County for the purpose of any proceeding in an action, such solicitor shall be entitled to receive from the Official Guardian in respect of the proceeding the same costs as if the solicitor so employed were solicitor and Guardian of the infant.

Costs of solicitor
employed
by official
Guardian.

(8) The Official Guardian *ad litem* shall once every six months file in the Accountant's office an affidavit, shewing all costs recovered by him as Official Guardian *ad litem*, during the six months preceding the making of the affidavit, giving therein the several amounts received by him, and the name or names of the actions and matters in which the same were respectively received by him, together with the date of receipt.

Return of
costs.

(9) When a new Official Guardian *ad litem* is appointed, he shall *ipso facto* become, and be by virtue of such appointment, Guardian *ad litem* to all infants, in the place and stead of his predecessor, with the same duties and powers; and the latter

Transfer on
appointment
of new
Guardian.

(his executors and administrators, as the case may be) shall forthwith deliver over to the new Official Guardian all letters, papers, documents and books in his possession or power as Official or other Guardian *ad litem* of infants; and the new Guardian shall forthwith communicate his appointment to whom it may concern.

Guardian not to practise if Lieutenant-Governor in Council or Court so orders.

(10) The Lieutenant-Governor in Council, or the High Court, may order that the Official Guardian is not to practise as a Barrister or Solicitor, and in such case he shall not, during the continuance of his appointment and of such order, directly or indirectly practise the profession of the law as Counsel or Solicitor, or as a Notary Public, or Conveyancer, or do any manner of conveyancing, or prepare any papers or documents to be used in any Court of this Province, except in the discharge of his duties as Official Guardian, or of any other duties which may be assigned to him by the said High Court or any Division or Judge thereof as the case may be; and the said Official Guardian in case of his offending in the matter aforesaid shall be subject to a penalty of forfeiture of office, and the further penalty of \$400 to be recovered by any person who sues for the same by action in the High Court; and one-half of such pecuniary penalty shall belong to the party suing, and the other half to Her Majesty for the use of the Province. 44 V. c. 5, s. 66; 48 V. c. 13, s. 18.

Return of official Guardian's accounts.

132. The Accountant shall yearly and on or before the 15th day of January in every year transmit to the Lieutenant-Governor in Council a just, true and faithful statement, shewing the state of the "Account of Official Guardian *ad litem*," upon the 31st day of the preceding December. 44 V. c. 5, s. 67.

Accountant of Supreme Court.

133.—(1) Subject to any Rules of Court which may be made under the provisions of sections 105 to 108 of this Act the present Accountant and his successors appointed under section 112 of this Act, shall be the Accountant of the Supreme Court of Judicature for Ontario, and shall be so designated.

(2) For the purposes of holding the mortgages, stocks, funds, securities, and all estate therein, and any interest in real and personal estate, effects or property, and of all moneys and effects mentioned and described in section 134 of this Act, or in any Rule or Order of Court, the said Accountant shall be a corporation sole by the name of "The Accountant of the Supreme Court of Judicature for Ontario," and the said Accountant as such corporation sole shall have perpetual succession, and may sue and be sued, may plead and be impleaded in any of Her Majesty's Courts in this Province. 48 V. c. 13, s. 17.

Securities vested in Accountant.

134. All mortgages, stocks, funds, annuities and securities whatsoever, at the time of the commencement of *The Ontario Judicature Act, 1881*, standing in the name of the Accountant of the Court of Chancery, or of the Referee in Chambers, or

any other officer named by the Court for the purpose under the authority of the 31st section of the Chancery Act, or in his custody or power as such Accountant, Referee in Chambers or other officer aforesaid, together with all the interest and estate of the said Accountant, Referee in Chambers or other officer, in the lands and premises embraced in such mortgages or other securities, and by the said *The Ontario Judicature Act, 1881*, vested in the Accountant of the High Court for the time being, as such Accountant, and all other mortgages, stocks, funds, securities and all estate therein, and any interest in real and personal estate, effects or property, and all moneys and effects, bonds and guarantees, on the 30th day of March, 1885, vested in and held by the Accountant of the High Court in his own name, or in his name of office, as such Accountant, subject to the same trusts as they may then respectively have been subject to, are hereby declared to be and to have been from and after the 30th day of March, 1885, vested in the said corporation sole under the name aforesaid. See R. S. O. 1877, c. 40, ss. 30-33; 44 V. c. 5, s. 68 (3); 48 V. c. 13, ss. 17-19.

135. All mortgages, stocks, funds, securities, and all estate therein, and all moneys and effects prior to the 30th day of March, 1885, standing in the name of the Registrar of the Court of Appeal as such Registrar in any cause, matter, or proceeding then or at any time theretofore pending in the said Court of Appeal, are hereby declared to be and from and after the said day to have been transferred to and vested in the Accountant of the Supreme Court of Judicature for Ontario as such Accountant, subject to the trusts which respectively attached thereto; and the said Registrar and one of the Judges of the said Court of Appeal are to execute all cheques or documents necessary to effect a formal transfer thereof, if any are required; and the Registrar is forthwith to deliver to the said Accountant all books of account and documents in his possession or control relating to the moneys and property hereby declared to be and to have been transferred to the said Accountant. 48 V. c. 13, s. 19.

Securities held by Registrar of Court of Appeal to be transferred to Accountant of Supreme Court.

136. In case of there being at any time no Accountant of the Supreme Court, all mortgages, stocks, funds, annuities and securities whatsoever theretofore standing in the name of any Accountant, or in his custody or power in respect of his office, together with all the interest and estate of the said Accountant in the lands and premises embraced in such mortgages or other securities, shall become and be, by force of this Act, vested in such other officer as the Supreme Court, by general rule, may, from time to time, direct, subject to the same trusts as they may then respectively be subject to. 44 V. c. 5, s. 68 (2).

When there is no Accountant securities to be vested in officer appointed by Court.

137. All moneys that become subject to the control and distribution of the High Court or Court of Appeal, shall be paid in the name of the Accountant of the Supreme Court, (or

Money in Court how to be disposed of.

if there is no Accountant in the name of such other officer as the Court by general rule may from time to time direct) into the hands of such person or body corporate, or shall be invested in the name of the Accountant (or, if there is no Accountant, in the name of such other officer) in the public funds of the Dominion of Canada or of this Province, or in such other securities as the Court may from time to time direct, R. S. O. 1877, c. 40, s. 33; 48 V. c. 13, s. 20.

Expenses of
Accountant's
Office.

138. The expenses of the Accountant's Office including all salaries shall, be the first charge on the income arising from the funds in Court. 44 V. c. 5, s. 69.

Amounts to be
paid to
Suitors' Fee
Fund.

139. The surplus income arising from the funds in the High Court after payment of the expenses of the Accountant's office, and of such interest on the moneys of suitors as from time to time by Rules of Court or otherwise is directed to be paid, shall be transferred to the "Suitors' Fee Fund Account." 47 V. c. 10, s. 5.

Suitors' Fee
Fund.

140. "The Suitors' Fee Fund Account," shall continue to be kept and managed as may from time to time be directed by the Court, and any Divisional Court or any Judge of the Supreme Court of Judicature for Ontario may apply the same as may be necessary for the protection of infants and other persons not *sui juris* or *non compotes mentis*, on whose behalf proceedings may be had in the Court, or may, by the Court, be ordered to be had in other Courts, and may also, from time to time, order to be paid, out of the money at the credit of the said account, any sum required to make good a default arising in respect of suitors' money or securities from any mistake, act, or omission of any official of the Court. Such payment is to be without prejudice to any personal liability of the official or his sureties in respect of the mistake, act or omission. R. S. O. 1877, c. 40, s. 104; 41 V. c. 8, s. 5; 47 V. c. 10, s. 6.

Certain losses
may be
charged on
Suitors' Fee
Fund.

Inspector of
Sheriffs and
other officers.

141. The Lieutenant-Governor may from time to time appoint one of the officers of the High Court, or some other competent person, to inspect the offices of the Sheriffs, Local Masters, Deputy Registrars, Deputy Clerks of the Crown, Local Registrars of the High Court, Registrars of Surrogate Court, Clerks of the Peace, and County Crown Attorneys, and Clerks of the County Court, in the respective Counties of the Province, and such other officers connected with the administration of justice as the Lieutenant-Governor in Council may from time to time direct. 44 V. c. 5, s. 70; 49 V. c. 16, s. 40.

Duties of
Inspector.

142. The duty of the Inspector shall be:—

1. To make a personal inspection of the said offices and of the books and Court papers belonging thereto respectively;
2. To see that proper books are provided, that they are in good order and condition, that the proper entries and records

are made therein in a proper manner, at proper times, and in a proper form and order, and that the Court papers and documents are properly classified and preserved;

3. To ascertain that the duties of the officers are duly and efficiently performed;

4. To see that proper costs and charges only are allowed or exacted;

5. To ascertain that proper security has been given by any officer required by law to give security;

6. To ascertain whether uniformity of practice prevails in the several offices of the High Court and in the County and Surrogate Courts;

7. To report upon all such matters, as expeditiously as may be, to the Lieutenant-Governor. 44 V. c. 5, s. 70.

143. When the said Inspector has occasion to institute an inquiry into the conduct of any officer in relation to his or their official duties or acts, it shall be lawful for the said Inspector to require such officer, or any other person or persons, to give evidence on oath; and for this purpose the said Inspector shall have the same power to summon such officers and other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books and documents and give evidence, as any Court has in civil cases. 44 V. c. 5, s. 71.

Inquiries by Inspector.

144. The said several officers shall, as often as required by the said Inspector, produce for examination and inspection all books and documents which are required to be kept by them, or which may hereafter be required to be kept by them; and shall report to the Inspector all such matters relating to any cause or proceeding as the Inspector shall require. 44 V. c. 5, s. 72.

Books, etc., to be produced for inspection.

145.—(1) Where the Inspector of Legal Offices, appointed under section 141 of this Act, or any other officer inspecting legal offices under the authority of an order of the Lieutenant-Governor in Council, finds any paper or proceeding which should have had affixed to it law stamps, to be unstamped, or to be insufficiently stamped, he may require the officer to whom belonged the duty of seeing that such paper was properly stamped, to affix to every such paper or proceeding a stamp or stamps of a sufficient amount to make up the deficiency.

Affixing stamps to papers unstamped or insufficiently stamped.

(2) The Inspector or other officer directing stamps to be affixed as aforesaid shall cancel the stamps so affixed in such manner as shall be directed by the Lieutenant-Governor in Council, and the affixing of such stamps by direction of the Inspector, shall have the same effect as if the paper or proceeding had been duly stamped in the first instance. 48 V. c. 13, s. 31.

Stenographic
writers.

146.—(1) The stenographic writers heretofore appointed, or who shall hereafter be appointed by the Lieutenant-Governor to report trials at sittings of the High Court, or of a County Court, shall be officers of the Court to which they are appointed, and shall hold office during the pleasure of the Lieutenant-Governor, and shall perform such other duties as may be assigned to them by rule of Court, or order of the Lieutenant-Governor in Council.

Reporter's
oath.

(2) Every such reporter shall take the following oath before one of the Judges of the Court to which he is appointed, and the same shall be filed:

I (A. B.) do solemnly and sincerely promise and swear that I will faithfully report the evidence and proceedings at the trial in each case in which it may be my duty to act as shorthand reporter. So help me God. 49 V. c. 16, s. 41.

Appointment
of special
examiners.

147. The Supreme Court may, from time to time, under the seal of the Court, appoint and at discretion remove special examiners for the purpose of taking evidence of parties and witnesses, and the examiners so appointed shall have all the powers formerly possessed by Masters Extraordinary and Examiners. R. S. O. 1877, c. 40, s. 11.

Admini-stra-
tion of oaths.

148. Any officer of the Supreme Court or the High Court shall, for the purposes of any proceedings directed by the Court to be taken before him, have full power to administer oaths, to take affidavits, to receive affirmations, and to examine parties and witnesses, as the Court may direct. R. S. O. 1877, c. 40, s. 10.

Sheriffs, gaol-
ers, etc., to be
officers of the
Court.

149. Sheriffs, deputy sheriffs, gaolers, constables and other peace officers, shall aid, assist and obey the Court and the Judges thereof respectively in the exercise of the jurisdiction conferred by this Act, and otherwise, whenever by any General or other Order of the Court or of a Judge thereof, required so to do. R. S. O. 1877, c. 40, s. 17.

Gaols to be
prisons of the
Court.

150. All gaols in Ontario shall be prisons of the High Court. R. S. O. 1877, c. 40, s. 18.

Salaries, &c.

151.—(1) There shall be paid out of the Consolidated Revenue Fund of this Province such sums as the Legislature may from time to time appropriate for such purpose as and for the salaries of officers of the said Courts, who are not paid by fees or otherwise. R. S. O. 1877, c. 39, s. 49; c. 40, s. 15.

(2) The salaries of all officers of the Court which are payable out of the Consolidated Revenue Fund shall be paid monthly, but the payment to be made in each case on the first day of payment which happens after the right thereto accrues, shall be a ratable proportion of a month's salary, according to

the time then elapsed since the accrual of the right; and in case of a vacancy, the person who vacates the office, his executors or administrators, shall be entitled to a proportional part of his salary according to the time elapsed between the vacancy and the last payment. R. S. O. 1877, c. 40, s. 15; c. 39, s. 51.

152.—(1) Unless specially authorized, neither the Master in Ordinary, the Registrars, nor any of their deputies, nor the Process Clerk, nor the Clerk in Chambers, nor the Accountant, nor any Clerk appointed as aforesaid, shall take for his own benefit, directly or indirectly, any fee or emolument, save the salary to which he may be entitled by law; but the like sums and fees heretofore payable on proceedings in the offices of the said officers shall continue to be payable; and all such fees shall form part of the Consolidated Revenue Fund of the Province, and shall be payable in stamps, subject to the provisions of *The Act respecting Law Stamps*. No fees allowed. How fees to be payable. Rev. Stat. c. 22.

(2) The Local Masters, and Deputy Registrars not paid by salary and the Commissioners may retain to their own use all the fees of office which they respectively receive not payable to the Crown or belonging to any fee fund, and need not account to the Crown for any portion of such fees. R. S. O. 1877, c. 40, s. 16; c. 39, s. 52. Local officers may take fees.

153.—(1) The Lieutenant-Governor in Council may appoint that sums not in any case exceeding \$600 nor less than \$100 yearly shall be paid out of moneys to be hereafter voted by the Legislature for the purpose, as and for the salaries of the Deputy Clerks of the Crown respectively. R. S. O. 1877, c. 39, s. 50. Salaries of Deputy Clerks of the Crown.

(2) The preceding provision fixing the maximum at \$600 shall not apply to any case where the Deputy Clerk does not hold the office of Registrar of the Surrogate Court. 45 V. c. 11, s. 5.

154. The fees payable on all writs and process issued by the Clerk of the Process shall form part of the Consolidated Revenue Fund of the Province, and shall be payable in stamps subject to the provisions of *The Act respecting Law Stamps*. R. S. O. 1877, c. 39, s. 45. Fees on writs and process. Rev. Stat. c. 22.

155. In addition to all fees, otherwise authorized to be levied on proceedings in the High Court, the following fees shall form part of the Consolidated Revenue Fund of the Province, and shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*. Fees. Rev. Stat. c. 22.

	\$	cts.
On every writ of summons, capias or subpoena, and on every other writ or other document of what nature or description soever, having the seal of the Court affixed thereto	0	50
On every judgment entered.....	0	60

On every certificate of action instituted, judgment or decretal order made	\$0 50
On setting down on the paper for argument of every demurrer, special case, points reserved, special verdict or appeal case.....	0 30
On entering every action for trial or assessment	2 00
On every rule or order of Court issued.....	0 20
On taxation of every bill of costs.....	0 20

R. S. O. 1877, c. 39, s. 53 ; c. 40, s. 105 ; 44 V. c. 5, Rule 432.

Fees.

156. In addition to all fees otherwise authorized to be levied on proceedings in cases brought to the Court of Appeal from the High Court, the following fees shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps* :

Rev. Stat. c.
22.

On every appeal entered.....	\$4 00
On every judgment, decree, or order of the Court passed and entered.....	2 00

R. S. O. 1877, c. 38, s. 55.

COUNTY COURTS AND JUDGES.

Local Judges
of High Court.

157. The Judges of the several County Courts shall be Judges of the High Court for the purposes of their jurisdiction in actions in the High Court ; and in the exercise of such jurisdiction may be styled "Local Judges of the High Court," and shall, in all causes and actions in the High Court, have, subject to Rules of Court, power and authority to do and perform all such acts, and transact all such business in respect to matters and causes in and before the High Court as they are by Statute or Rules of Court in that behalf from time to time empowered to do and perform. 44 V. c. 5, s. 76.

TRANSFERRING CAUSES FROM COUNTY OR DIVISION COURTS TO HIGH COURT.

Transfer to
High Court
from County
and Division
Courts.

158. In cases before any County or Division Court where the defence or counter claim of the defendant involves matter beyond the jurisdiction of the Court, the High Court or any Division or Judge thereof, may on the application of any party to the proceeding, order that the whole proceeding be transferred from such Court to the High Court, or to any Division thereof ; and in such case the Record in such proceeding shall be transmitted by the Clerk or other proper officer, of the County or Division Court to the said High Court ; and the same shall thenceforth be continued and prosecuted in the said High Court as if it had been originally commenced therein. 44 V. c. 5, s. 78. (*See cap. 47, s. 22, and Cap. 51, s. 74.*)

MISCELLANEOUS.

Order in
Council as to
allowances and
salaries sub-

159—(1) Every Order in Council determining the commutation allowance or the salary of any Judge, Official Guardian or other officer, under the authority of this Act, shall be laid be-

fore the House of Assembly forthwith, if the Legislature is in session at the date of the Order, and if the Legislature is not then in session, the Order shall be laid before the said House within the first seven days of the session next after the Order in Council is made.

ject to
ratification
by Legislative
Assembly.

(2) In case the Assembly at the said session, (or, if the session does not continue for three weeks after the said Order is laid before the House, then at the ensuing session of the Legislature,) disapprove by resolution of such Order in Council, either wholly, or so far as relates to any of the persons therein named, the Order in Council, so far as so disapproved of, shall have no effect from the time of such resolution being passed. 44 V. c. 5, s. 81.

160. This Act shall not affect, the issue of any Commissions of Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, or other commission for the discharge of civil or criminal business on circuit or otherwise; or the authority of a Judge or a retired Judge of any of the Superior Courts, or a Judge of a County Court, or one of Her Majesty's Counsel learned in the law, to preside without any commission at any Court of Assize, Oyer and Terminer, and General Gaol Delivery, or at a Court held under this Act in the exercise of the jurisdiction now belonging to the Courts of Assize, Oyer and Terminer, and General Gaol Delivery, or the authority of any such Judge or retired Judge of a Superior or County Court, or Counsel learned in the law, to hold any sitting for the hearing of causes; and any such Judge or Counsel shall after the commencement of this Act have the same authority to preside as aforesaid, or to hold any sitting of the High Court for the hearing of causes in the High Court respectively, which such Judge or Counsel now has to preside at Courts of Assize, Oyer and Terminer, and General Gaol Delivery, or to hold a sitting of the Court of Chancery for the hearing of causes; and any such Judge or Counsel when presiding as aforesaid with or without a commission, or when holding any sitting as aforesaid, shall be deemed to constitute a Court. 44 V. c. 5, s. 85.

Saving as to
circuits, etc.

161. Every person shall hereafter have access to and be entitled to inspect the several books of the High Court and of the County Courts, containing records or entries of the writs issued, judgments entered, and chattel mortgages and bills of sale filed; and no person desiring such access or inspection shall be required, as a condition to his right thereto, to furnish the names of the parties or the style of the causes or matters in respect of which such access or inspection is sought; and the registrars and deputy-registrars of the High Court and all clerks of the County Courts of the Province respectively, shall, upon demand or request, produce for inspection any writ of summons or copy thereof, and any judgment roll, or chattel mortgage, or bill of sale so issued.

All books in
which writs,
judgments,
etc., are
entered to be
open to
inspection.

entered or filed in their respective offices, or of which records or entries are, by law, required to be kept in such several books of the High Court and County Courts respectively. 50 V. c. 18, s. 1.

Fees.

162. The fees payable in respect of such inspection of books shall be twenty-five cents as for a general search, and ten cents for each writ of summons, judgment roll, chattel mortgage or bill of sale so inspected, and ten cents per folio shall also be payable for all extracts, whether made by the person who makes the search or by the officer. 50 V. c. 18, s. 2.

This Act not to apply to criminal and other matters.

163. Nothing in this Act shall affect the practice or procedure in criminal matters, or matters connected with Dominion Controverted Elections, or proceedings on the Crown or Revenue side of the Queen's Bench or Common Pleas Divisions. 44 V. c. 5, s. 87.

CHAPTER 45.

An Act respecting Courts of Assize and Nisi Prius and of Oyer and Terminer and General Gaol Delivery.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Special Commissions may issue.

1. The Lieutenant-Governor may issue Commissions for holding Courts of Assize, Nisi Prius, Oyer and Terminer, and General Gaol Delivery, or Special Commissions of Oyer and Terminer or of General Gaol Delivery for the trial of offenders, whenever he deems it expedient. R. S. O. 1877, c. 41, ss. 1 (1, 4), 4.

Sittings of Assize and Nisi Prius may be distinct from Courts of Oyer and Terminer and General Gaol Delivery.

2. The sittings of the Courts of Assize and Nisi Prius in any County may, in the discretion of the Judge or Judges appointed to preside or presiding thereat, be held separate and apart from the Courts of Oyer and Terminer and General Gaol Delivery, either on the same day or on a different day. R. S. O. 1877, c. 41, s. 3.

Commissions to whom they may issue.

3.—(1) The commissions shall always contain the names of the Judges of the High Court: and may also contain the names of any of the Judges of any of the County Courts and of any of Her Majesty's Counsel learned in the law appointed for Upper Canada or for the Province of Ontario.

and the said Courts shall be presided over by one of the Chief Justices or Judges of the High Court, or in their absence by one of such County Court Judges or Counsel. Who to preside.

(2) It shall not be necessary to name any Associate Justices in any Commissions of Oyer and Terminer and General Gaol Delivery, or that any Associate Justices should be nominated to, or attend or be present at, any Court of Oyer and Terminer and General Gaol Delivery. Associate Justices dispensed with. R. S. O. 1877, c. 41, s. 7.

4. Any Judge or Queen's Counsel presiding at any sittings of the Court of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, or of any of such Courts, shall while so presiding possess, exercise and enjoy all the powers and authorities which are now or were formerly granted in commissions issued for holding all or any of the said Courts, or which a Judge of the High Court would have, if presiding thereat. Powers of the presiding Judge at any Assize. R. S. O. 1877, c. 41, s. 8; 44 V. c. 5, Rule 273.

5. Any person acting as a Judge of Assize and Nisi Prius may, in and for the county for which he is acting, and while the sittings of the said Court last, act as a Judge in Chambers in all matters entered for trial before him, as if he were a Judge of the High Court. Any one sitting as Judge of Assize may during sittings act as Judge in Chambers. R. S. O. 1877, c. 41, s. 9.

6. Where the Judge whose duty it is to hold any Court of Assize and Nisi Prius, or of Oyer and Terminer and General Gaol Delivery, does not arrive in time, or is not able to open the Court on the day appointed for that purpose, the Sheriff of the county in which the Court should be holden, or, in his absence, his Deputy, may, after the hour of six of the clock in the afternoon of such day, adjourn by his proclamation, the Court which should have been opened on that day, to an hour on the following day to be by him named, and so from day to day until the Judge arrives to open the Court, or until the Sheriff receives other direction from the Judge in that behalf. Course to be pursued by the Sheriff if the Judge does not arrive on the day appointed. R. S. O. 1877, c. 41, s. 11.

CHAPTER 46.

An Act respecting County Judges and the Local Courts.

SHORT TITLE, s. 1.

COUNTY JUDGES AND JUNIOR JUDGES,
ss. 2-6.

DEPUTY JUDGES, ss. 7-9.

OATH OF OFFICE, s. 10.

DUTIES AND POWERS OF JUDGES,
ss. 11-16.

COUNTY COURT DISTRICTS, ss. 17-23.

INTERPRETERS, s. 24.

SHORTHAND WRITERS, s. 25.

LOCAL COURTS OF COUNTY OF YORK,
s. 26.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Short title. 1. This Act may be cited as "*The Local Courts' Act*."
R. S. O. 1877, c. 42, s. 1.

JUDGES AND JUNIOR JUDGES.

Tenure of
office by
County Court
Judges.

Removal.

2. The Judges of the several County Courts holding office when this Act takes effect, as well as the Judges hereafter to be appointed, shall hold their offices during good behaviour, but shall be subject to be removed by the Lieutenant-Governor for inability, incapacity or misbehaviour, established to the satisfaction of the Lieutenant-Governor in Council. R. S. O. 1877 c. 42, s. 2.

Qualification
of Judges.

3. The person appointed to be the Judge or Junior Judge of a County Court shall be a Barrister of at least five years standing at the bar of Ontario. C. S. U. C. c. 15, s. 2; 49 V. c. 16, s. 2.

The Senior
Judge to be
styled "The
Judge," etc.

4.—(1) In case more than one County Court Judge is appointed for any county, then, unless otherwise expressed in the commission, the Judge whose commission has priority of date shall be styled "The Judge of the County Court of " (as the case may be), and the other Judge of the same Court shall be styled "The Junior Judge" thereof.

Appointment
of Junior
Judges.

(2) No Junior Judge shall be appointed in or for any county or union of counties, unless the population of the county or union of counties exceeds forty thousand, as appears by the official census then last taken. R. S. O. 1877, c. 42, s. 3.

5. Every County Court Judge shall reside within the county or union of counties of which his commission designates him as Judge; and there shall continue to be a resident Judge in each county or union of counties, now having a County Judge. R. S. O. 1877, c. 42, s. 4.

To reside within the County.

6. No Judge shall, during the continuance of his appointment, directly or indirectly practise in the profession of the law as Counsel, Solicitor, Notary Public, or Conveyancer or do any manner of conveyancing, or prepare any papers or documents to be used in any Court of this Province, under the penalty of forfeiture of office and the further penalty of \$400 to be recovered by any person who sues for the same in the High Court, and one-half of the pecuniary penalty shall belong to the party suing, and the other half to Her Majesty. R. S. O. 1877, c. 42, s. 5.

Not to practise.

Penalty.

DEPUTY JUDGES.

7.—(1) A Barrister of at least three years' standing at the Bar of Ontario, may be appointed to be Deputy Judge for any county.

A Deputy Judge may be appointed.

(2) The appointment may be made notwithstanding that the office of Judge is vacant by death, or resignation, or that the Judge is ill or absent at the time of the appointment of such Deputy Judge. R. S. O. 1877, c. 42, s. 6.

8. Every Deputy Judge shall hold office during pleasure, and in case of the death, illness, or absence of the Judge, shall have authority to perform in the place of the Judge, in the County for which he is Deputy, all the duties of and incident to the office of Judge of the County Court and Division Courts, and all acts required or allowed to be done by the Judge of the County Court under this or any other statute. R. S. O. 1877, c. 42, s. 7.

Tenure of office and powers.

9. No Deputy Judge shall be disabled from practising the profession of the law while holding his appointment. R. S. O. 1877, c. 42, s. 8.

Not to be disabled from practising.

OATH OF JUDGES.

10. No County Court Judge, or Deputy Judge, shall enter upon the duties of his office until he has taken the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

Oath of office.

"I, _____, do swear that I will (in the case of a Deputy Judge add the words as occasion may require,) truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of Judge of the County Court of the County of _____ (or United Counties of _____, as the case may be), and of the several Division Courts within the same, without fear, favour or malice: So help me God."

R. S. O. 1877, c. 42, s. 9.

DUTIES AND POWERS OF JUDGES.

County Court Judges to be *ex-officio* Justices of the Peace.

11. Every County Court Judge, not including a Deputy Judge, shall be *ex-officio* a Justice of the Peace for every county and part of Ontario, and may act in the office of Justice of the Peace in any part of the Province; and no property or other qualification shall be required in the case of a County Court Judge. R. S. O. 1877, c. 42, s. 10.

Powers of Junior Judge.

12. Where any power or authority is, by this Act or by any statute now in force or which may hereafter be passed, conferred upon or is otherwise exercisable by the Senior Judge of a County Court, whether with reference to the holding of any of the Courts of the county which the said Judge may hold, or to the business of any of the said Courts, or to any other matter or thing over which the said Judge has jurisdiction, either by virtue of any statute or otherwise howsoever, the like power and authority shall be possessed by, and may be executed by the Junior Judge, subject, however, to the general regulation and supervision of the Senior Judge. R. S. O. 1877, c. 42, s. 11.

Either or both Judges to preside in any of the Courts of the County or one in each Court simultaneously.

13. At any sittings of the County Court at the same time as the sittings of the Court of General Sessions of the Peace, or of a Division Court in any county, or of any two of the said Courts at the same time, either the Senior or Junior Judge or both of them, may, if the Senior Judge thinks fit, preside in any of the said Courts, or each of them in one of said Courts at the same time, so that two of the said Courts may sit and the business therein be proceeded with simultaneously. R. S. O. 1877, c. 42, s. 12.

Duty of Judge to act without his County.

14. It shall be the duty of a County Court Judge to hold any of the Courts in any county other than his own, or to perform any other duty of a County Court Judge in any county, upon being required so to do by an order of the Governor-General made at the request of the Lieutenant-Governor; or, without any such order, the Judge in any county may, if he sees fit, perform any judicial duties in any county other than his own on being requested to do so by the Judge to whom the duty for any reason belongs. R. S. O. 1877, c. 42, s. 13.

Retired County Judges may act for County Judges in certain cases.

15. Any retired County Court Judge may hold any Court or perform any other duty of a County Court Judge, in any county, on being requested to do so by the Judge to whom the duty for any reason belongs, or upon being authorized so to do by an order of the Governor-General, made at the request of the Lieutenant-Governor. R. S. O. 1877, c. 42, s. 14.

Power of a Judge acting without his County.

16. In the cases mentioned in the next preceding two sections, the Judge, acting in compliance with such direction or request, shall have jurisdiction to hold all or any of the Courts

of the county in which he so acts, and to do or adjudicate upon all matters or things in such county and whether relating to the business of any of the said Courts or to any other matter or thing over which the Judge of the County Court of the county has jurisdiction, either by virtue of any statute or otherwise howsoever; and no act of such Judge in any county shall be open to question in any legal proceeding on the alleged ground that he was not the proper Judge to perform the duty, or that the same had not been regularly or otherwise assigned to him, or had not been performed at such request, or by such direction, as the law requires. R. S. O. 1877, c. 42, s. 15.

COUNTY COURT DISTRICTS.

17.—(1) Any part or parts of the Province may, for the purposes of this Act, be divided into districts, or groups of counties, by proclamation of the Lieutenant-Governor, at such time or times as he may deem expedient; and such division shall take effect, and the districts thereby formed be erected and established, on such day after the first publication of the proclamation in the *Ontario Gazette* as the proclamation may name. Division into Districts.

(2) The districts so erected may, from time to time be dissolved, re-established, altered or re-arranged by the Lieutenant-Governor by like proclamation; and the time when the dissolution, alteration or re-arrangement is to take effect may be named, proclaimed and published in the *Ontario Gazette* in like manner. R. S. O. 1877, c. 42, s. 16.

18. After the erection of a district for the purposes of this Act, the several County Courts, Courts of General Sessions, Division Courts, Courts of Appeal under *The Assessment Act*, Courts for the Revision of Voters' Lists and all other courts which a County Judge may hold in each county, shall be held by the Judges (including therein the Junior Judges) in the district, in rotation, as far as may in each district be just, convenient and practicable, in view of the respective ages, length of service, and strength of the several Judges and the special duties assigned to Junior Judges, as well as in view of the other offices (if any) held by any of the Judges, and all other circumstances. R. S. O. 1877, c. 42, s. 17. What Judges shall hold the Courts.

19.—(1) The Judges in any or each district so erected shall meet together at least once in every year; and the Judges present or a majority of them, shall arrange and appoint which of the said Courts in the district shall be held by each of the Judges of the district throughout the ensuing year, and what other judicial work each shall discharge in the respective counties of the district throughout the year. Annual meeting of Judges to arrange as to business.

Judges of a
County Court
District may
regulate
sittings in
June and
December.

(2) The Judges may also (subject to the approval of the Lieutenant-Governor in Council, to be notified in the *Ontario Gazette*) fix and appoint the times in the months of June and December respectively in every year, for the holding of the County Courts and General Sessions of the Peace in every county of such district, and the Courts shall be held on the days so appointed. R. S. O. 1877, c. 42, s. 18.

First
meetings,
when and
where to be
held.

20.—(1) The first meeting shall take place at such place and time as may be named for that purpose in the proclamation erecting and establishing a district of counties, or at the place and on the day the Judges of the district may agree upon in case the same are not named in the proclamation; and the meeting may be continued from day to day at the discretion of the Judges present.

Subsequent
meetings.

(2) The subsequent annual meetings shall be at such one of the county towns of the district, and at such place therein, and at such time, as the Judges of the district may unanimously agree upon, or as a majority present at the annual meeting may appoint, or as the Lieutenant-Governor may by Order in Council direct. R. S. O. 1877, c. 42, s. 19.

Duty of the
Judges.

21. It shall be the duty of every Judge to whom any duty is assigned at such meeting, to perform the duty so assigned to him; and if he is, by reason of illness or other cause, unable to perform the same, it shall be his duty to do what is necessary, if he can, to have the duty performed by another person competent by law in that behalf. R. S. O. 1877, c. 42, s. 20.

Want of pro-
vision made at
a meeting for
performance
of duties.

22. In case no provision is made at such meeting for some duty belonging to the County Court Judges, or in case the provision made in that behalf proves abortive, it shall be the duty of the Judges of the district to see that the deficiency is supplied by some other person competent by law in that behalf, and to forthwith communicate what they do therein to the Provincial Secretary. R. S. O. 1877, c. 42, s. 21.

Powers of
Judge of a
County form-
ing part of a
District.

23. The Judge of any county, forming part of a district, may if he sees occasion, perform in any part of the district any judicial acts affecting the Courts or business of the county of which his commission designates him as Judge, and being within the legislative authority of this Province. R. S. O. 1877, c. 42, s. 22.

INTERPRETERS.

Appointment
of official
interpreters.

24. In case the municipal council of any county pass a resolution requesting or approving of the appointment of an official interpreter to act at the Courts held in that county, an appointment may be made accordingly in the same manner, and subject to the same terms and conditions, as provided in regard to

shorthand writers by the next section and the said section shall apply as nearly as may be to the official interpreters. 48 V. c. 13, s. 26.

SHORTHAND WRITERS.

25.—(1) In case the Municipal Council of any county or the Municipal Councils of any county and a city or town united with the county for judicial purposes and not within the jurisdiction of the County Council, pass a resolution or resolutions, as the case may be, requesting or approving of the appointment of a shorthand writer to and for the local Courts of the county, the Lieutenant-Governor may from time to time appoint a person to fill the office of shorthand writer for the said Courts, and such person shall be subject to the direction of the Senior Judge, or, in his absence, to the direction of the Junior Judge, and shall be entitled to such remuneration, either by salary or by fees, or partly by salary and partly by fees, as the Lieutenant-Governor in Council may from time to time direct; and if paid by salary only, the fees payable in respect of his duties as a shorthand writer shall go in reduction of his salary, and the balance, if any, shall be paid by the county quarterly, on the first day of January, April, July and October of every year.

Shorthand writers.

Salary.

(2) The fees, and all matters relating to the duties of the said officer shall be determined and regulated from time to time by the Judges of the said County Court, subject to the approval of the Lieutenant-Governor in Council.

Fees and Duties.

(3) The city or town aforesaid, shall bear and recompense the county for a proper proportion of the salary, and the proportion, in case the city or town and county disagree, shall be determined by arbitration, according to the provisions of *The Municipal Act*; and, subject to such agreement or arbitration, and until and unless the same determines a different proportion, the city or town shall pay to the county one-half, and the county's share shall be one-half of said salary.

Share of city or town in salary.

Rev. Stat., c. 184.

(4) This section shall not apply to the County of York. R. S. O. 1877, c. 42, s. 23.

26.—(1) The Lieutenant-Governor may from time to time appoint a person to fill the office of shorthand writer for the local Courts of the County of York, and such person shall be subject to the direction of the Senior Judge, or, in his absence, to the direction of the Junior Judge, and shall be entitled to such remuneration, either by salary or by fees, or partly by salary and partly by fees, as the Lieutenant-Governor in Council may from time to time direct: and if paid by salary only, the fees payable in respect of his duties as a shorthand writer, shall go in reduction of his salary, and the balance, if any, shall be paid by the county quarterly, on the first day of January, April, July and October of every year.

Local Courts of County of York.

Salary.

Fees and
duties.

(2) The fees, and all matters relating to the duties of said officer shall be determined and regulated from time to time by the Judges of the said County Court, subject to the approval of the Lieutenant-Governor in Council.

Share of City
of Toronto in
salary.

(3) The City of Toronto shall bear and recompense the County of York for a proper proportion of the salary, and the proportion, in case the City and Council disagree, shall be determined by arbitration, according to the provisions of *The Municipal Act*; and, subject to such agreement or arbitration, and until and unless the same determines a different proportion, the city shall pay to the county one-half, and the county's share shall be one-half of the salary. R.S.O. 1877, c. 42, s. 24.

Rev. Stat.,
c. 184.

CHAPTER 47.

An Act respecting the County Courts.

SHORT TITLE, s. 1.	COSTS, s. 30.
STYLE OF THE COURTS, s. 2.	EXECUTION, ss. 31, 32.
JUDGES, s. 3.	POWER TO ENFORCE RULES, s. 33.
CLERKS, ss. 4-10.	ACCOUNTS AND INQUIRIES, ss. 34-37.
SPECIAL EXAMINERS OF HIGH COURT TO BE OFFICERS OF COUNTY COURTS, s. 11.	TRANSFERS, s. 38.
SITTINGS, ss. 12-17.	COSTS OF TRANSFER OR REFERENCE, s. 39.
JURISDICTION, ss. 18-22.	APPEALS, ss. 40-52.
REMOVAL OF ACTIONS BY <i>certiorari</i> , ss. 23-25.	RULES OF LAW, s. 53.
PLEADING AND PRACTICE, ss. 26-29.	RULES OF COURT, s. 54.
	TARIFF OF COSTS, s. 55.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The County Courts Act*." R. S. O. 1877, c. 43, s. 1.

Existing
Courts con-
tinued.

2. There shall be in every county or union of counties a Court of Record, to be styled the County Court of the county of (or united counties of as the case may be); and the County Courts already established under such names respectively, and all existing commissions, Judges and officers of such County Courts shall continue subject to the provisions of this Act. R. S. O. 1877, c. 43, s. 2.

JUDGES.

3. The County Court in every county shall be presided over by the Judge or junior or acting Judge or Deputy Judge as provided by *The Local Courts Act*. R. S. O. 1877, c. 43, s. 3.

[As to Judges being Local Judges of the High Court. See c. 44, s. 157; and as to Judges exercising authority of Master in Chambers and local Masters. See *The Rules*. Rev. Stat. c. 46.]

CLERKS.

4. The Lieutenant-Governor shall from time to time appoint, under the great seal, a clerk to every County Court, to hold office during pleasure. R. S. O. 1877, c. 43, s. 4. The Lieutenant-Governor to appoint clerks.

5. Every clerk of a County Court shall give security for the due performance of his office, in such sum and with so many sureties, and in such manner and form as the Lieutenant-Governor directs. R. S. O. 1877, c. 43, s. 5. Clerks to give security.

6.—(1) The clerk of every County Court shall keep his office in the Court House, or if there be no room therein, then in such place within the county town, as the Judge directs. R. S. O. 1877, c. 43, s. 6. Place of office.

(2) Provided, however, that the clerk of the County Court of the County of Essex, may keep an office in some convenient place in the Town of Windsor, in the County of Essex, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval thereof by the Lieutenant-Governor in Council. 49 V. c. 13, s. 1.

7. The clerk of every County Court shall, from time to time as often as required so to do by the County Crown Attorney of his county, and at least once in every three months, deliver to him, verified by the affidavit of such clerk, sworn before the Judge or a Justice of the Peace of the county, a full account in writing of all fines levied by the Court. R. S. O. 1877, c. 43, s. 8. Clerk to render accounts to County Crown Attorney.

[*Return of fees by County Clerks. See Cap. 15, s. 29.*]

8. The clerks of the County Courts shall tax costs, subject, in the event of a dispute arising at taxation, to an appeal to the Judges of the County Courts respectively. R. S. O. 1887, c. 43, s. 9. Clerk to tax costs.

9. No clerk of a County Court shall, for fee or reward draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office and for which a fee is not expressly allowed by the tariff in that behalf. 44 V. c. 5, s. 65, *part*. Clerk not to draw or advise on documents.

Clerk of the Peace to act *pro tem* in case of the death, etc., of the Co. Court Clerk.

10. In the event of the death, resignation or removal of a clerk of the County Court the Clerk of the Peace for the County shall, *ex-officio*, be clerk of the County Court until another person is appointed and assumes the duties of the office, and every Clerk of the Peace while clerk of the County Court as aforesaid shall, except in the County of York, be also *ex-officio* Deputy Clerk of the Crown and Registrar of the Surrogate Court. The Clerk of the Peace shall add the words *pro tem* when affixing his official designation as clerk of the County Court, Deputy Clerk of the Crown or Registrar of the Surrogate Court to his signature in any writs, rules, grants or orders, signed by him under the provisions of this section: Provided, however, that the preceding enactment as to the Clerk of the Peace being *ex-officio* Registrar of the Surrogate Court, shall not apply to any case where at the time of the death, resignation or removal of the clerk of the County Court, he did not hold the office of Registrar of the Surrogate Court 42 V. c. 15, s. 5.

SPECIAL EXAMINERS.

Special examiners of High Court to be officers of County Court.

11. All special examiners of the High Court heretofore or hereafter appointed, shall be officers of the several County Courts of the Province and shall possess like powers in County Court cases, as those now possessed and exercised by them in cases in the High Court. 49 V. c. 16, s. 9.

SITTINGS.

Sittings in lieu of terms.

12.—(1) In lieu of terms, the several County Courts shall in each year hold four quarterly sittings, which (except in the County of York), shall commence respectively on the second Monday in the month of January and the first Monday in the months of April, July and October in each year, and end on the Saturday of the same week, unless extended by order of the Judge.

(2) The said quarterly sittings of the County Court of the County of York shall commence on the second Monday in January, June and October, and the first Monday in April in each year; and shall end on the Saturday of the same week, unless extended by order of the Judge.

(3) It shall not be necessary for the Sheriff or his officers to attend the said quarterly sittings of the County Court. 50 V. c. 8, Sched.

County Court sittings, time of.

Rev. Stat. c. 46, s. 19.

13.—(1) Except in the County of York, and subject to the provisions of section 19 of the *Local Courts Act*, sittings of the said County Courts, for the trial of issues of fact and assessment of damages, shall be held semi-annually, to commence on the second Tuesday in the months of June and December in each year.

(2) The County Court of the County of York shall hold four such sittings in each year, to commence respectively on the first Tuesday in the months of December and March, and on the second Tuesday in the months of May and September in each year. R. S. O. 1877, c. 43, s. 13.

14. Except in the County of York, there shall be sittings of the several Courts of this Province on the first Tuesday in the months of April and October in each year, whereat all issues of fact in any civil action brought or pending in the Court wherein the sittings may be, and every assessment and inquiry of damages in such action may be heard, tried and assessed by the Judge of such Court without the intervention of a jury, in those cases where no jury is required. R. S. O. 1877, c. 43, s. 14; 44 V. c. 5, Rule 487.

15. In addition to the regular sittings of the several County Courts, the Judge of every County Court may, at such times as he appoints for the purpose, hold additional sittings of such Courts for the trial of issues of fact to be tried in such Court by a Judge without a jury; and he shall hold such sittings as often as may be requisite for the due despatch of business. R. S. O. 1877, c. 43, s. 15.

16. While sittings of the County Court of any County which has a Senior and Junior Judge, are being held for the trial of issues of fact and assessment of damages, the Judges of the said Court, or any two persons authorized to hold the sittings of such Court, may, in case the General Sessions of the Peace have been adjourned or have terminated, sit separately, one for the trial of causes where a jury is required, and the other for the trial of causes to be tried without a jury. R. S. O. 1877, c. 43, s. 16.

17.—(1) Where, from illness or from other casualty, the Judge who is to hold the Sittings of the County Court is unable to hold the same at the time appointed therefor, the Sheriff of the County, or in his absence his Deputy, may adjourn by his proclamation the said Court to any hour on the following day, to be by him named, and so from day to day until the Judge is able to hold such Court, or until he receives other directions from the Judge or Provincial Secretary.

(2) The Sheriff shall forthwith notify any adjournment to the Provincial Secretary, for the information of the Lieutenant-Governor. R. S. O. 1877, c. 43, s. 17.

JURISDICTION.

18. Except in the cases of actions for the recovery of corporeal hereditaments mentioned in section 20 of this Act, or in other cases in which, by any other Act jurisdiction is conferred

upon County Courts or a Judge thereof, the said Courts shall not have cognizance of any action :

1. In which the title to land is brought in question ; or,
2. In which the validity of any devise, bequest or limitation under any will or settlement is disputed ; or
3. For libel or slander ; or,
4. For criminal conversation or seduction ; or
5. Against a Justice of the Peace for anything done by him in the execution of his office, if he objects thereto. R. S. O. 1877, c. 43, s. 18.

Jurisdiction
allowed.

19. Subject to the exceptions contained in the last preceding section, the County Courts shall have jurisdiction.

1. In all personal actions where the debt or damages claimed do not exceed the sum of \$200 ;

2. In all causes and actions relating to debt, covenant and contract, to \$400, where the amount is liquidated or ascertained by the act of the parties or by the signature of the defendant ;

3. To any amount on bail-bonds given to a Sheriff in any case in a County Court, whatever may be the penalty ;

4. On recognizances of bail taken in a County Court, whatever may be the amount recovered or for which the bail therein may be liable ;

Rev. Stat.
c. 55,

5. In actions of replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$200, as provided in *The Replevin Act*.

6. In interpleader matters, as provided by the rules respecting interpleader. R. S. O. 1877, c. 43, s. 19.

Jurisdiction
in actions for
recovery of
land.

20.—(1) The several County Courts shall have jurisdiction in actions for the recovery of corporeal hereditaments (where the yearly value of the premises, or the rent payable in respect thereof, does not exceed \$200) in the following cases, namely :

(a) Where the term and interest of the tenant of such corporeal hereditament has expired, or has been determined by the landlord or the tenant, by a legal notice to quit :

(b) Where the rent of such corporeal hereditament is sixty days in arrear, and the landlord has the right by law to re-enter for non-payment thereof ;

Power in such
cases,

and in respect to such actions the said Courts shall have and exercise the same powers as belong to and may be exercised by the High Court, in and in respect to actions for the recovery of land.

(2). Every such action shall be brought in the County Court of the County in which the premises sought to be recovered lie. In what County such actions to be brought.

(3). The term "Landlord," as used in this section shall be understood to mean the person entitled to the immediate reversion of the lands; or if the property be holden in joint tenancy, coparcenary or tenancy in common, shall be understood to mean any one of the persons entitled to such reversion. "Landlord" defined.
R. S. O. 1877, c. 43, ss. 20-22.

21. Every County Court shall as regards all causes of action within its jurisdiction for the time being, have power to grant and shall grant in any proceeding before such Court such relief, redress, or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties, forfeitures and agreements for liquidated damages, and shall in every such proceeding give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provision next hereinafter contained), in as full and ample a manner as might and ought to be done in the like case by the High Court. 44 V. c. 5, s. 77; 49 V. c. 16, s. 38. Powers of County Courts.

22.—Where in a proceeding before a County Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the Court, such defence or counter-claim shall not affect the competence or the duty of the Court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall be given to the defendant upon such counter-claim. 44 V. c. 5, s. 78. *See* Cap. 44, s. 158. Duty of Courts where defence or counter-claim involves matters beyond jurisdiction.

REMOVAL OF ACTIONS BY CERTIORARI.

23.—(1) Where it appears in an action otherwise of the proper competency of the County Court that such Court has not cognizance thereof from the title to land being brought in question, or from the validity of a devise, bequest, or limitation under a will or settlement being disputed, a Judge of the High Court or the Judge of the County Court before whom the cause is pending, may order a writ of *certiorari* to issue out of the High Court, to remove the cause into the High Court; and the cause when removed into the High Court shall be proceeded with in the said Court in the manner pointed out in section 25 of this Act. Where County Court jurisdiction ousted, the case may be removed by certiorari.

(2) The Judge making the order may in his discretion make and impose terms on the party applying for the *certiorari*, as to payment of costs, giving security for debt or costs, or such other terms as he thinks fit. Imposition of terms on granting certiorari.

Judge of High Court may review order for *certiorari* of Co. Court Judge.

(3) Where the writ is issued on the order of a Judge of a County Court, a Judge of the High Court sitting in Chambers at Toronto, may rescind the order, or vary the terms thereof or imposed thereby. R. S. O. 1877, c. 43, s. 24.

In what cases and on what conditions causes shall be removable.

24. Except in cases within the meaning of the preceding section, no cause or action instituted in a County Court shall be removed or removable from such County Court, by writ of *certiorari*, or otherwise, into the High Court unless the debt or damages claimed amount to upwards of \$100, and then only on affidavit and by leave of a Judge of the High Court, in cases which appear to the Judge fit to be tried in the High Court, and upon such terms as to payment of costs, giving security for debt or costs, or such other terms as he thinks fit. R. S. O. 1877, c. 43, s. 25.

On removal by *certiorari* case to proceed on the record as it stands.

25. In a case removed from the County Court to the High Court by a writ of *certiorari*, it shall not be necessary to deliver a new statement of claim, but the case shall proceed on the record as it stands when removed into the High Court, and all subsequent proceedings may be had and taken in the cause in the same way as if it had been originally commenced and prosecuted in the High Court. R. S. O. 1877, c. 43, s. 26.

PLEADING AND PRACTICE.

Where actions against Judges of County Courts to be brought.

26. An action by or against a Judge or Junior Judge of a County Court which is within the competence of a County Court, may be brought in the County Court of any County adjoining that in which such Judge or Junior Judge resides. R. S. O. 1877, c. 43, s. 27.

Pleas to the jurisdiction must be verified.

27. When it is intended by a pleading to bring into question the title to land, or to any annual or other rent, duty, or other custom or thing, relating to or issuing out of lands or tenements, it shall be so expressly stated in the pleading, nor shall such pleading be received by a County Court without an affidavit thereto annexed that the same is not pleaded vexatiously, nor for the mere purpose of excluding the Court from jurisdiction, but that the same contains matter which the deponent believes to be necessary for the party pleading to enable him to go into the merits of his case. R. S. O. 1877, c. 43, s. 28; 50 V. c. 8, Sched.

Procedure in County Courts.

28. Subject to the provisions of *The Judicature Act* and to Rules of Court, the pleadings, practice and procedure for the time being of the High Court shall apply and extend to the County Courts, wherever the pleadings, practice and procedure of the County Courts corresponded with those of the Superior Courts of Law, prior to the passing of *The Ontario Judicature Act, 1881*. 44 V. c. 5, Rule 490.

29. The several County Courts may set aside verdicts or non-suits, and grant new trials, and such Courts and the Judges thereof may set aside judgments by default, and proceedings for irregularity, grant time for any pleading, and order stay of proceedings till security is given for costs, and may issue summonses and make orders in all matters of practice in like manner and on the like principles and grounds, and to the same extent as in the High Court, or by the Judges thereof in the said Court, and may cause rules on sheriffs, or any other rules, orders or proceedings thereupon to be served in any county. R. S. O. 1877, c. 43, s. 30.

Powers as to new trials, etc.

COSTS.

30. In all actions or other proceedings brought in a County Court in which the plaintiff fails to recover judgment by reason of such Court having no jurisdiction over the subject matter thereof, the County Court shall have jurisdiction over the costs of the action, or other proceeding, and may order by and to whom the same shall be paid, and the recovery of the costs so ordered to be paid may be enforced by the same remedies as the costs in actions or proceedings within the proper competence of the said Court are recoverable. 44 V. c. 5, Rule 489.

Costs when action fails for want of jurisdiction.

EXECUTION.

31. The County Courts may issue writs of execution against goods and against lands, and writs of *capias ad satisfaciendum* against the person, in like cases, upon the same terms, and in the same order, as similar writs may be issued in the High Court. R. S. O. 1877, c. 43, s. 31.

Writs of execution.

32. The County Courts may issue writs of execution against the person, lands or goods, writs of subpoena, rules on the sheriff, and all other rules, orders and proceedings into any other county, to be served or executed therein; and Judge's summonses and orders may be issued in like manner; and all such writs, rules, summonses, orders and proceedings shall be of equal force and effect, and as binding as if the same had been issued from the Court or by the Judge of the county to or into which they are so issued, and all subsequent proceedings thereupon shall be carried on in the Court in which the action has been brought or the judgment entered. R. S. O. 1877, c. 43, s. 32.

Writs of execution may run into other counties.

POWER TO ENFORCE RULES.

33. The several County Courts shall have and exercise the same powers to enforce their rules, regulations and directions as the High Court possesses, and may punish by fine or imprisonment, or by both, for any wilful contempt or resist-

Power to enforce rules, etc.

ance to their regular process, rules or orders; but the fine shall in no case exceed \$100, nor shall the imprisonment exceed six months. R. S. O. 1877, c. 43, s. 33.

ACCOUNTS AND INQUIRIES.

Accounts may be taken and inquiries made by a Master on an order.

34. Where, in the opinion of the Court or a Judge, it is necessary or proper in an action to take accounts or make inquiries, which cannot conveniently or properly be taken by the means available in the Court, the Court or Judge may order the accounts and inquiries to be taken and made by the Master in Ordinary of the Supreme Court or any of the local Masters. R. S. O. 1877, c. 49, s. 26.

Power of the Master on such order.

35. Where an order is made under the preceding section, the Master to whom the reference is directed shall proceed therein, and all rules as to the powers of the Master, and as to the proceedings in the Master's office, shall apply thereto. R. S. O. 1877, c. 49, s. 27.

Master's report to be filed.

36. Where the Master has made his report pursuant to the order, the same shall be filed with the officer of the Court with whom the pleadings are filed; and the report shall, without an order confirming the same, become absolute at the expiration of fourteen days after the filing thereof, unless previously appealed from, but the Court or a Judge may, under special circumstances, allow an appeal after the fourteen days. R. S. O. 1877, c. 49, s. 28.

When it shall become absolute.

Appeal from report.

37. The appeal from a report referred to in the preceding section shall be to a Judge in Chambers or to the Court; but when the appeal is taken to the Court, the notice of appeal shall be returnable not later than the fourth day of the County Court Sittings next after the filing of the report. R. S. O. 1877, c. 49, s. 29.

TRANSFERRING CASES TO THE HIGH COURT.

Cases may be transferred to the High Court.

38.—(1) If it appears to a County Court or a Judge thereof that an equitable question raised in an action or other proceeding in such County Court, cannot be dealt with by the County Court so as to do complete justice between the parties, or may for any other reason be more conveniently dealt with in the High Court, the Court or Judge may order the action or proceeding to be transferred to the High Court; and the order of transference may be made by the Court or Judge *sua sponte*, or upon the application of either party on notice to the other parties interested, and may be made at any stage of the action or other proceeding. R. S. O. 1877, c. 49, s. 23.

Proceedings on transfer to High Court.

(2) Where an order is made under the preceding sub-section, the proper officer of the County Court shall annex together all

pleadings and papers filed with him, and transmit the same, together with the order of transference or a copy thereof, to such officer of the High Court as the order directs. R. S. O. 1877, c. 49, s. 24.

3) Where a transfer has been made under this section the action or other proceeding shall thereafter proceed in the Division of the High Court to which it has been transferred; and the Judges of the High Court and the officers thereof shall have the same powers and perform the same duties in relation thereto, and the Rules and practice of the Supreme Court shall in all respects (or as nearly as may be) apply as if the suit had been originally instituted as an action, or proceeding in the High Court; but no further or other pleadings shall be necessary than the original pleadings in the Court from which the action or proceeding was transferred, unless specially ordered by the Court or a Judge. R. S. O. 1877, c. 49, s. 25.

On a transfer made to High Court practice, powers, etc.

COSTS ON TRANSFERS AND REFERENCES.

39. Where an action is transferred under section 38, or a reference is directed under section 34, the fees and disbursements shall be paid and the solicitors' costs taxed according to the scale of fees applicable in actions, which before the passing of *The Ontario Judicature Act, 1881*, and *The Law Reform Act, 1868*, might have been brought under the equity jurisdiction of the County Court. R. S. O. 1877, c. 49, s. 30.

Costs on transfer or reference.

APPEALS FROM COUNTY COURTS.

40. The terms "party to a cause," and "appellant," hereinafter used, shall include persons suing or being sued in the name of others, though not mentioned in the record, and persons on whose behalf or for whose benefit any action is prosecuted or defended, as well as parties named in the record. R. S. O. 1877, c. 43, s. 34.

Interpretation.

41. Any party to an action in a County Court may,

Appeals in actions in County Court.

1. Appeal to the Court of Appeal from a judgment directed by a judge of the County Court, at or after the trial in a case tried by him without a jury, or in which he directs judgment at or after the trial upon the special findings of the jury in a case tried with a jury, or,

2. Instead of appealing to the Court of Appeal, either party may, in cases tried by a Judge, move before the County Court, within the first two days of its next quarterly sittings, for a new trial, or to set aside the judgment on any ground except that upon the evidence given, the judgment, so directed, is wrong in law.

3. In cases tried with a jury, instead of appealing to the Court of Appeal, a similar motion may be made before the County Court for a new trial, or to set aside the judgment directed to be entered upon the special findings of the jury upon any ground except that the judgment so directed to be entered is wrong in law.

4. Either party may appeal to the Court of Appeal from the judgment of the County Court, upon applications, under sub-sections 2 and 3.

5. Where a party is entitled to move before the County Court under sub-sections 2 and 3, he may move before the said Court upon all grounds which would be open to him if he were appealing to the Court of Appeal. 48 V. c. 13, s. 23 (1); 50 V. c. 7, s. 30.

Appeals from
decision of
Judge.

42. An appeal shall also lie to the Court of Appeal at the instance of any party to a cause or matter from every decision made by a Judge of a County Court under any of the powers conferred upon him by any rules of Court or any statute, unless provision is therein made to the contrary; and from every decision or order made by a Judge of a County Court sitting in Chambers under the provisions of the law relating to the examination of debtors, attachment of debts and proceedings against garnishees; and from every decision or order made in any cause or matter disposing of any right or claim, provided always that the decision or order is in its nature final and not merely interlocutory. 45 V. c. 6, s. 4.

Appeal after
judgment
signed.

43. An appeal may be had from any appealable decision of a County Court Judge, notwithstanding judgment has been signed thereon; provided that the required security be given within the time limited by the Judge under section 46; and in every case the allowance of the bond by the Judge shall operate as a stay of execution, unless the Judge shall otherwise direct. 45 V. c. 6, s. 5, *part*.

Judgment
may be set
aside by Court
of Appeal.

44. In any appeal in a case where judgment has been signed, and the decision appealed against is reversed, the Court of Appeal shall have authority to set aside the judgment, and make any other order as to them shall appear requisite and just. 45 V. c. 6, s. 5, *part*.

Certifying pro-
ceedings.

45. The Judge shall only be required under section 51 of this Act, in appeals under section 42 to certify the motions, rules, orders, affidavits, evidence and other materials, necessary for the full understanding of the matter in appeal, together with his judgment or decision on the same. 45 V. c. 6, s. 6.

Staying pro-
ceedings.

46. Any Judge of the County Court appealed from on the application of the appellant, his counsel or solicitor, shall stay the proceedings in the cause for a time or times not exceeding

thirty days in all, in order to afford the party time to give the security hereafter required to enable him to appeal. R. S. O. 1877, c. 43, s. 36; 45 V. c. 6, s. 5.

47. The appellant shall give or cause to be given to the Security⁵ opposite party security either—

1. By a bond executed by two persons, whether named as By bond, sureties or as parties interested or otherwise, in such sum as the Judge of the Court appealed from may direct, conditioned that the appellant shall abide by the decision of the cause by the Court of Appeal, and pay all sums of money and costs, as well of the action as of the appeal, awarded and taxed to the opposite party; or

2. By paying into the Court appealed from, in the manner By payment provided by law, within the time herein limited for the perfect- into Court. ing of an appeal bond, the sum of \$400, or such other sum as the Judge may direct. R. S. O. 1877, c. 43, s. 37.

48. In case of security being given by bond, the parties Affidavit of executing the same shall justify to the amount of the penalty where bond of the bond by affidavit annexed thereto, in like manner as given. bail are required to justify. R. S. O. 1877, c. 43, s. 38.

49. The bond and affidavit of justification, and an affidavit Bond to be ap- of the due execution of the bond, shall be produced to the proved and Judge, to be approved of by him; and upon being approved of filed. shall be filed in the office of the Court appealed from until the opinion of the Court of Appeal has been given, and shall then be delivered to the successful party. R. S. O. 1877, c. 43, s. 39.

50. In case security is given by deposit of a sum of money Deposit to re- in Court, such sum shall remain in Court as security for the main in Court payment of all sums of money and costs, as well of the action till appeal dis- as of the appeal, awarded and taxed to the opposite party. posed of. R. S. O. 1877, c. 43, s. 40.

51. Upon the bond being so approved, or the deposit being Pleadings, paid into Court, the Judge shall, at the request of the appellant, etc., to be cer- certify under his hand to the Court of Appeal the pleadings in tified to Court the cause, and all motions, rules or orders made, granted or of Appeal. refused therein, together with the Judge's charge and the judgment or decision on the same, and, where a trial has been had, the evidence and all objections and exceptions thereto, and all other papers in the cause affecting the questions raised by the appeal. R. S. O. 1877, c. 43, s. 41.

52. The appeal shall thereupon be set down for argument Setting down at the next sittings of the Court of Appeal, or at such other appeals. time as that Court may by rule or order in that behalf provide; and that Court shall give such order or direction to the Court

Costs.

below, touching the judgment to be given in the matter, as the law requires; and shall also award costs to either party in its discretion, which costs shall be certified to and form part of the judgment of the Court below; and upon receipt of the order, direction and certificate, the Court below shall proceed in accordance therewith. R. S. O. 1877, c. 43, s. 42.

RULES OF LAW.

Rules of Law
to apply to
County
Courts.

53. The several rules of law enacted and declared by *The Judicature Act* shall be in force and receive effect in all County Courts in Ontario, so far as the matters to which such rules relate shall be respectively cognizable by such Courts. 44 V. c. 5, s. 80.

RULES OF COURT.

Judges of
Supreme
Court and of
High Court
may make
rules.

Rev. Stat.
c. 44.

54. The Judges of the Supreme Court and of the High Court respectively, shall have the same authority to make Rules of Court with respect to the County Courts as by section 105 of *The Judicature Act* they have with respect to the High Court: and the Judges authorized, as mentioned in section 108 of that Act, shall, with respect to the County Courts, have the like authority. 45 V. c. 11, s. 2.

TARIFF OF COSTS.

Tariff of costs
for counsel
and solicitors.

Rev. Stat.
c. 51.

55. The board of County Judges appointed under section 298 of *The Division Courts Act*, or the majority of them, may frame a tariff of costs to be allowed to solicitors and counsel in respect of actions in the County Courts, and may, from time to time, alter and amend the same.

Rev. Stat.
c. 44.

(2) The board, or any three of them, shall certify to the Judges authorized to make rules under section 105 or section 108 of *The Judicature Act*, any tariff so framed, or any alteration thereof; and the Judges may approve, disallow or amend such tariff or alterations; and such tariff or alterations approved by the Judges shall have the same force and effect as if made under the said Act by the Judges so approving of the same. 47 V. c. 10, s. 11.

CHAPTER 48.

An Act respecting the Courts of General Sessions of the Peace.

SHORT TITLE, s. 1.
COURTS, ss. 2, 3.
SITTINGS, ss. 4-8.

BUSINESS OF THE COURTS, ss. 9, 10.
CLERK OF THE PEACE, s. 11.
TARIFF OF FEES, s. 12.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The General Sessions Act.*" Short title.
R. S. O. 1877, c. 44, s. 1.

2. The authority under which Commissions of the Peace have been issued, and the authority under which the Courts of General Sessions of the Peace have been holden and are now held, and all matters and things done by or by virtue of the same, shall be, so far as relates to the authority under which such commissions were issued and such Courts have been holden, good and valid. R. S. O. 1877, c. 44, s. 2.

3. The said Courts shall be in the place and stead of the County Courts of England, as far as respects any purpose of outlawry, or any proceedings therein. R. S. O. 1877, c. 44, s. 3.

SITTINGS.

4.—(1) Except in the County of York, and subject to the provisions of section 19 of *The Local Courts Act*, the sittings of the Courts shall be held semi-annually, commencing on the second Tuesday in the months of June and December respectively in each year.

(2) In the County of York, the Courts shall be held four times in the year, commencing on the first Tuesday in the months of December and March, and on the second Tuesday of the months of May and September respectively in each year.
R. S. O. 1877, c. 44, s. 4.

Where to be held.

5. The Court of General Sessions of the Peace shall be held in the county town of the county, but in time of war or other exigency the Lieutenant-Governor may, by proclamation, authorize the holding of the Court at some other place in the county. R. S. O. 1877, c. 44, s. 5.

Chairman.

6. The Judge of the County Court of every county, or, in case of his death or absence, the Judge, Junior or acting Judge, or Deputy Judge shall preside as chairman at the General Sessions of the Peace for the county. R. S. O. 1877, c. 44, s. 6.

Sitting of associate Justice of Peace dispensed with when a Judge present.

7. Where a Judge or Junior or Deputy Judge is present, it shall not be necessary, in order to constitute a Court or sittings of the General Sessions of the Peace, that an associate or other Justice of the Peace should be present at the Court or sittings. R. S. O. 1877, c. 44, s. 7.

Adjourning General Sessions owing to illness of Judge, etc.

8.—(1) Where, from illness or from other casualty, the Judge who is to hold the sittings of the General Sessions of the Peace, is unable to hold the same at the time appointed therefor, the sheriff of the county, or, in his absence, his deputy, may adjourn by his proclamation the said Court to any hour on the following day, to be by him named, and so from day to day, until the Judge is able to hold the Court, or until he receives other directions from the Judge or Provincial Secretary.

Provincial Secretary to be notified.

(2) The Sheriff shall forthwith notify any adjournment to the Provincial Secretary, for the information of the Lieutenant-Governor. R. S. O. 1877, c. 44, s. 8.

Reading the Commissions dispensed with.

9. It shall not be necessary, in opening any Court of General Sessions, to read the Commission of the Peace, or other commission issued for the county for which the Court is held: but the Court shall have the same powers and authorities, and proceed in the same manner, as if the commission had been read. R. S. O. 1877, c. 44, s. 9.

RESCINDING ORDERS OF COURT.

No order of Justices to be rescinded unless at least same number present.

10. Except where otherwise provided by law, any order which has been passed or recorded by any number of Justices of the Peace in any county, shall not be rescinded unless at least the same number is present. R. S. O. 1877, c. 44, s. 10.

CLERK OF THE PEACE.

Clerk of the Peace.

11.—(1) No person shall be appointed Clerk of the Peace for any county who is not a barrister-at-law, of at least three years' standing at the bar of Ontario; and, except in the County of York, every Clerk of the Peace shall be *ex officio* County Crown Attorney for the county of which he is Clerk of the Peace.

(2) Except in the County of York, whenever a vacancy occurs in the office of the Clerk of the Peace for a county, in which the Clerk of the Peace was not, previous to such vacancy occurring, also County Crown Attorney for the county, the County Crown Attorney shall be *ex officio* Clerk of the Peace for the county. R. S. O. 1877, c. 44, s. 11 (1, 2).

(3) Where a person holding the office of County Crown Attorney and Clerk of the Peace desires, from the condition of his health or from his age, to resign the office of County Crown Attorney, retaining the office of Clerk of the Peace, he may do so if the Lieutenant-Governor thinks fit to accept his resignation; and in such case the County Crown Attorney appointed in his place shall, on a vacancy occurring in the office of the Clerk of the Peace be *ex officio* Clerk of the Peace for the county, as in other cases. 49 V. c. 16, s. 10.

(4) In the County of York, the Clerk of the Peace shall not be *ex officio* County Crown Attorney nor the County Crown Attorney *ex officio* Clerk of the Peace, but the offices may respectively be held and enjoyed by different persons. R. S. O. 1877, c. 44, s. 11 (3).

TARIFF OF FEES.

12.—(1) The Board of County Judges appointed under section 298 of *The Division Courts Act*, or the majority of them, may frame a tariff of fees and costs to be allowed in respect of proceedings in the Courts of General Sessions of the Peace to witnesses and to the Clerk of the Peace, and to solicitors and counsel practising therein, including the County Attorney, and may from time to time alter and amend the same.

(2) The board or any three of them shall certify to the Judges authorized to make rules under section 105 or section 108 of *The Judicature Act*, any tariff so framed, or any alteration thereof, and any Judges authorized to make rules under the said Act may approve, disallow or amend any such tariff or alterations.

(3) Any tariff or alteration so approved of, or amended and approved, shall have the same force and effect as if it had been enacted by the Legislature of this Province. 48 V. c. 13, s. 25 (1, 3, 4).

[As to additional allowance in case of prolonged sittings of Court. See Cap. 83, s. 13.]

CHAPTER 49.

An Act respecting the County Judges' Criminal Courts.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Judge of the
County Court
constituted a
Court for trial
of certain
offenders
without jury.

1. The Judge of every County Court, or the Junior or Deputy Judge thereof, authorized to act as Chairman of the General Sessions of the Peace for any county, is constituted a Court of Record for the trial, out of sessions and without a jury, of any persons committed to gaol on a charge of being guilty of any offence for which such person may be tried at a Court of General Sessions of the Peace, and for which the person so committed consents to be tried out of sessions, and without a jury ; and the Court so constituted shall have the powers and duties which *The Speedy Trials Act*, purports to give, so far as the Legislature of this Province can give the same. R. S. O. 1877, c. 45, s. 1.

Powers and
duties,
R. S. C. c. 175.

Style of Court.

2. The Court constituted by the preceding section shall be called "The County Judge's Criminal Court" of the county in which the same is held. R. S. O. 1877, c. 45, s. 2.

CHAPTER 50.

An Act respecting the Surrogate Courts.

SHORT TITLE, s. 1.	APPEALS TO THE COURT OF APPEAL, s. 33.
INTERPRETATION, s. 2.	PROCEDURE TO OBTAIN PROBATE, ss. 34-51.
CONSTITUTION OF THE COURTS, ss. 3-5.	COPIES OF WILLS, ETC., s. 52.
JUDGES, ss. 6, 7.	ADMINISTRATION OF ESTATES, ss. 53-66.
SURROGATE CLERK AND REGISTRARS, ss. 8-15.	ADMINISTRATION OF ESTATES OF SMALL VALUE, ss. 67-69.
JURISDICTION AND POWERS OF COURTS, ss. 16-21.	FEES AND COSTS, ss. 70-77.
TERMS, s. 22.	GENERAL RULES AND ORDERS, s. 78.
WITNESSES AND EVIDENCE, ss. 23-29.	
REFERENCE OR REMOVAL OF CASES TO HIGH COURT, ss. 30-32.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Surrogate Courts' Act.*" Short title. R. S. O. 1877, c. 46, s. 1.

INTERPRETATION.

2. Where the following words and expressions occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears; Interpretation.

1. "Will" shall comprehend "testament," and all other testamentary instruments of which probate may now be granted; "Will."

2. "Administration" shall comprehend all letters of administration of the effects of deceased persons whether with or without the will annexed, and whether granted for general, special or limited purposes; "Administration."

3. "Matters and causes testamentary" shall comprehend all matters and causes relating to the grant and revocation of probate of wills or letters of administration; "Matters and causes testamentary."

4. "Common form business" shall mean the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probates and administration through a Surrogate Court when the contest is terminated, and all business of a non-contentious nature to be taken in a Surrogate Court in matters of testacy and intestacy not being proceedings in any suit, and also the busi- "Common form business."

ness of lodging caveats against the grant of probate or administration. R. S. O. 1877, c. 46, s. 2.

SURROGATE COURTS.

A Surrogate Court to be in each County.

3. In and for every county in Ontario there shall be a Court of Record to be called "The Surrogate Court" of each respective county, over which Court one Judge shall preside; and there also shall be a Registrar, and such officers as may be necessary for the exercise of the jurisdiction to the said Courts belonging. R. S. O. 1877, c. 46, s. 3.

Courts to have seals; and exemplifications and copies under the seal to be received in evidence.

4. Each of the Surrogate Courts shall be provided with a suitable seal to be approved of by the Lieutenant-Governor; and the Judges of the said Courts may respectively cause the same from time to time, with the approval of the Lieutenant-Governor, to be broken, altered or renewed; and all probates, letters of administration, grants, orders, letters of guardianship and other instruments and exemplifications, and copies thereof respectively, purporting to be sealed with the seal of any Surrogate Court, shall, in all Courts and in all parts of Ontario, be received in evidence without further proof thereof. R. S. O. 1877, c. 46, s. 4.

Sittings where held.

5. The Surrogate Court of every county shall hold its sittings in the county town of the county. R. S. O. 1877, c. 46, s. 5.

JUDGES.

Judges of County Courts to be *ex officio* Judges of Surrogate Courts.

6. The Senior Judge of the County Court in every county shall be *ex officio* Judge of the Surrogate Court for the county; and in case of the illness or absence or at the request of a Judge of a Surrogate Court, or in case the office of Senior Judge is vacant, the Junior or acting Judge or the Deputy Judge (if any) of the County Court, shall have all the powers and privileges and perform all the duties of the Judge of the Surrogate Court. R. S. O. 1877, c. 46, s. 6.

Oath of Judge.

7. Every Judge of a Surrogate Court appointed after this Act comes in force shall, before executing the duties of his office, take the following oath before some one authorized by law to administer the same:

"I, _____, do solemnly and sincerely promise and swear that I will duly and faithfully, and according to the best of my skill and power, execute the office of Judge of the Surrogate Court of the County (or United Counties, as the case may be) of _____: So help me God."

R. S. O. 1877, c. 46, s. 7.

SURROGATE CLERK AND REGISTRARS.

Surrogate Clerk to be appointed—his duties.

8. There shall be a clerk, to be called the Surrogate Clerk, who shall perform the duties required of the Surrogate Clerk by this Act, as well as the duties that, by the Rules and Orders heretofore in force relating to Surrogate Courts, or to be here-

after made under this Act, are required of such Surrogate Clerk and also such other duties as may be required of him by the High Court; and the Surrogate Clerk shall be deemed an officer of the High Court, and the Lieutenant-Governor shall from time to time appoint and at his pleasure remove such Clerk. R. S. O. 1877, c. 46, s. 8; 49 V. c. 16, s. 11.

9.—(1) On the death, resignation or removal of the Registrar Who to be Registrar. of a Surrogate Court, the Clerk of the County Court shall be *ex officio* Registrar of the Surrogate Court; but this provision shall not apply to the Registrar of the Surrogate Court of the County of York, or to the Clerk of the County Court of the said county.

(2) The Lieutenant-Governor shall appoint a Registrar of County of York. the Surrogate Court of the County of York, to hold office during pleasure, and upon the death, resignation or removal of such Registrar, shall supply the vacancy. R. S. O. 1877, c. 46, s. 9.

10.—(1) In case the Registrar of a Surrogate Court dies, resigns or is removed from office, if the salary, fees and allowances of the Clerk of the County Court and Deputy Clerk of the Crown, or the Clerk of the County Court and Local Registrar of the High Court, for the year terminating on the 31st day of December next preceding the death, removal or resignation of such Registrar of the Surrogate Court amount to the sum of \$1,600, the Clerk of the County Court shall not be *ex officio* Registrar of the Surrogate Court. When Clerk of County Court not to be *ex officio* Registrar of the Surrogate Court.

(2) The recital or statement in a commission of the Lieutenant-Governor appointing a person to fill the office of Registrar of the Surrogate Court of any county shall be conclusive evidence that such registrarship comes within the provisions of this section. 46 V. c. 6, s. 5.

11. Every Registrar of a Surrogate Court appointed after this Act takes effect, shall before he shall be entitled or qualified to act as Registrar under this Act, take the following oath before the Judge of the Court, or some other person authorized by law to administer the same: Oath of Registrar.

"I, _____, do solemnly and sincerely promise and swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the County (or United Counties, as the case may be, of _____), and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done by myself or others, on any wills or testamentary papers, or other documents or papers committed to my charge: So help me God."

R. S. O. 1877, c. 46, s. 10.

12.—(1) The Registrar of every Surrogate Court shall hold his office in the Court House of the county, and a room therein shall be provided for that purpose, and in the event of there being no room in the Court House, every such Registrar shall, until Registrar's office.

Office to be a
depository for
the wills of
living persons.

such room is provided, hold his office at such place as the Judge of the Court directs; and the office of every Registrar shall be a depository for all wills of living persons given to the Registrar for safe keeping, and all persons may deposit their wills in the depository upon payment of such fees and under such regulations as may from time to time be directed by Rules or Orders in that behalf heretofore in force or hereafter made under this Act. R. S. O. 1877, c. 46, s. 11.

(2) Provided, however, that the Registrar of the Surrogate Court of the County of Essex may keep an office in some convenient place in the Town of Windsor, in the County of Essex, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval thereof by the Lieutenant-Governor in Council. 49 V. c. 14, s. 1.

Registrars to
preserve tes-
tamentary in-
struments,
papers, &c.

13. The Registrar of every Surrogate Court shall file and preserve all original wills and testamentary instruments of which probate or letters of administration with the will annexed are granted in such Surrogate Court, and all other papers used in any matter in such Court, subject to such regulations as may from time to time be made by any Rules or Orders under this Act in relation to the due preservation thereof, and the convenient inspection of the same. R. S. O. 1877, c. 46, s. 12.

Registrars to
transmit to
Surrogate
Clerk list of
probates, &c.

14. On the first Tuesday of every month, or oftener if required by any Rule or Order respecting Surrogate Courts in force at the time of the passing of this Act, or hereafter made under this Act, every Registrar of a Surrogate Court shall transmit by mail to the Surrogate Clerk, a list in such form and containing such particulars as may from time to time be required by such Rules and Orders, of the grants of probate and administration made by such Surrogate Court up to the last preceding Saturday, and not included in any previous return, and also a copy certified by such Registrar to be a correct copy of every will to which any such probate or administration relates, and such Registrars shall in like manner make a return of every revocation of a probate or administration. R. S. O. 1877, c. 46, s. 13.

Surrogate
Clerk and
Registrars not
to take fees
for drawing
and advising on
certain docu-
ments.

15. Neither the Surrogate Clerk or any Registrar of the Surrogate Court shall for fee or reward draw or advise upon any will or other testamentary paper, or upon any paper or document connected with the duties of his office for which a fee is not expressly allowed to him by the tariff in that behalf. 44 V. c. 5, s. 65.

[Returns by Registrars of Surrogate Courts, see c. 15, s. 29.]

JURISDICTION AND POWERS OF THE SURROGATE COURTS.

Testamentary
jurisdiction to
be exercised by
the Surrogate
Courts.

16. All jurisdiction and authority, voluntary and contentious, in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters

of administration of the effects of deceased persons having estate or effects in Ontario, and all matters arising out of or connected with the grant or revocation of probate or administration, shall continue to be exercised in the name of Her Majesty, in the several Surrogate Courts; but this provision shall not be construed as depriving the High Court of jurisdiction in such matters. R. S. O. 1877, c. 46, s. 14.

17. The Surrogate Courts shall have full power, jurisdiction and authority : Powers, and jurisdiction of Surrogate Courts,

1. To issue process and hold cognizance of all matters relative to the granting of probates, and committing letters of administration, and to grant probate of wills and commit letters of administration of the goods of persons dying intestate, having estate, goods, rights or credits in Ontario, and to revoke such probate of wills and letters of administration;

2. To hear and determine all questions, causes and suits in relation to the matters aforesaid, and to all matters and causes testamentary; and

3. Subject to the provisions herein contained, the Courts shall also have the same powers and the grants and orders of the said Courts shall have the same effect throughout all Ontario, and in relation to the personal estate of deceased persons, as the former Court of Probate for Upper Canada, and its grants and orders respectively had in relation to those matters and to causes testamentary within its jurisdiction, and to those effects of deceased persons dying possessed of goods and chattels over \$20 in value in two or more counties in Upper Canada; and all duties which by statute or otherwise were imposed on or exercised by the said Court of Probate or the Judge thereof in respect of probates, administrations and matters and causes testamentary, and the appointment of guardians and otherwise, shall be performed by the said several Surrogate Courts and the Judges thereof, within their respective jurisdictions; but no actions for legacies or for the distribution of residues shall be entertained by any of the said Surrogate Courts. R. S. O. 1877, c. 46, s. 15.

18.—(1) The grant of probate or letters of administration shall belong to the Surrogate Court for the county in which the testator or intestate had at the time of his death his fixed place of abode. To what particular Courts the grant of probate or administration shall belong.

(2) If the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the grant may be made by the Surrogate Court for any county in which the testator or intestate had personal or real estate at the time of his death.

(3) In other cases the grant of probate or letters of administration shall belong to the Surrogate Court of any county.

Effect of
probate and
administra-
tion.

(4) Probate or letters of administration by whatever Court granted shall, unless revoked, have effect over the personal estate of the deceased in all parts of Ontario. R. S. O. 1877, c. 46, s. 16.

ORDERS AND JUDGMENTS HOW ENFORCED.

Power of
Court to
enforce
orders and
judgments.

19. Every Surrogate Court shall have the like powers, jurisdiction and authority for enforcing the attendance of persons required by it as aforesaid, and for punishing persons failing, neglecting or refusing to produce deeds, evidences or writings, or refusing to appear or to be sworn or to make affirmation or to give evidence, or guilty of contempt, and generally for enforcing all orders, and judgments made or given by the Court under this Act, or under any other Acts giving jurisdiction to Surrogate Courts, and otherwise in relation to the matters to be enquired into and done by or under the Orders made under this Act, as are vested in the County Courts. R. S. O. 1877, c. 46, s. 17.

POWER TO TRY BY JURY.

Courts may
cause ques-
tions of fact to
be tried by a
jury.

20. The Surrogate Courts may cause any question of fact arising in any proceeding under this Act, to be tried by a jury before the Judge of the Court; and upon order being made allowing a trial by jury, such trial shall take place at some ensuing sittings of the County Court for the County, and be conducted in the same manner as other trials by jury in the County Courts, and the parties shall be entitled to their right of challenge; and, for all purposes of or auxiliary to the trial of questions of fact by a jury before a Judge of the Surrogate Court, and, in respect of new trials, the said Surrogate Courts and the Judges thereof respectively shall have the same jurisdiction, power and authority in all respects as belong to the County Court, and the Judges thereof, for like purposes. R. S. O. 1877, c. 46, s. 18.

Procedure on
trial.

21. When such question is ordered to be tried by a jury before the Judge of a Surrogate Court, the question shall be reduced into writing in such form as the Court directs, and at the trial the jury shall be sworn to try the said question, and a true verdict give thereon according to the evidence; and upon every such trial the Judge of the Surrogate Court shall have the same powers, jurisdiction and authority as belong to the Judge of a County Court sitting for the trial of issues of fact. R. S. O. 1877, c. 46, s. 19.

TERMS.

Terms pre-
scribed.

22.—(1) In order that certain stated times may be fixed for hearing and determining matters and causes in contentious cases and business of a contentious nature in the Surrogate Courts, there shall be four Terms or times of sitting in each

year for the purposes aforesaid, which (except in the County of York) shall severally commence on the first Monday in the months of January, April, July and October, and end on the Saturday of the same week.³

(2) The Terms of the Surrogate Court of the County of York shall commence on the first Monday in January and April, and on the second Monday in June and October, in each year, and shall end on the Saturday of the same week.

In the County of York.

(3) The Judges of the several Courts may appoint one or more days for the giving of judgment in the same way as is provided by law in respect to County Courts. R. S. O. 1877, c. 46, s. 20.

Giving judgment.

WITNESSES, EVIDENCE, ETC.

23. Every Surrogate Court may require the attendance of any party in person, or of any person whom it may think fit to examine or cause to be examined in any suit or other proceeding in respect of matters or causes testamentary, and may examine or cause to be examined upon oath or affirmation, as the case may require, parties and witnesses by word of mouth, and may either before or after, or with or without such examination, cause them or any of them to be examined on interrogatories, or receive their or any of their affidavits or solemn affirmations, as the case may be; and each of the said Courts may, by writ of *subpoena* or *subpoena duces tecum* (as the case may be), require such attendance and order any deeds, evidences or writings, to be produced before itself or otherwise. R. S. O. 1877, c. 46, s. 21.

Attendance of parties or witnesses.

Production of deed and instruments, etc.

24.—(1) Whether any suit or other proceeding be or be not pending in the Court with respect to any probate or administration, every Surrogate Court may, on motion or petition or otherwise in a summary way, order any person to produce and bring before the Registrar of the Court or otherwise, as the Court may direct, any paper or writing being or purporting to be testamentary, which may be shewn to be in the possession or under the control of such person.

Orders and proceedings in respect to the production of instruments purporting to be testamentary.

(2) If it be not shewn that any such paper or writing is in the possession or under the control of such person, but if it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined before the Registrar or in open Court or upon interrogatories respecting the same, and he shall be bound to answer such questions or interrogatories, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like process of contempt in case of default in not attending or in not answering such questions or interrogatories or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit in the Court and

Examination of persons touching such instruments.

had made such default; and the costs of such motion, petition or other proceeding, shall be in the discretion of the Court. R. S. O. 1877, c. 46, s. 22.

Administra-
tion of oaths.

25. The Judges and Registrars of the Surrogate Courts shall have full power to administer oaths in matters and causes testamentary and in all other matters in any of the said Courts; and Commissioners for taking affidavits in the High Court and Notaries Public shall also have full power respectively to administer oaths in all matters and causes testamentary and in all other matters in the said Courts to parties desirous of making affidavit or deposition before them respectively. R. S. O. 1877, c. 46, s. 23; 48 V. c. 16, s. 1.

Evidence in Contentious Matters.

Mode of tak-
ing evidence
in contentious
matters.

26. Subject to the regulations established by the Rules and Orders heretofore in force respecting Surrogate Courts, or hereafter to be made under this Act, the witnesses, and, where necessary, the parties in all contentious matters where their attendance can be had, shall be examined orally by or before the Judge of the Surrogate Court in open Court; and subject to any such regulations as aforesaid, the parties may verify their respective cases by affidavit; but the deponent in every such affidavit shall, on the application of the opposite party, be subject to be cross-examined by or on behalf of the opposite party orally in open court as aforesaid, and, after such cross-examination, may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed. R. S. O. 1877, c. 46, s. 24.

Commissions to Examine Witnesses.

Courts may
issue commis-
sions for the
examination
of witnesses.

27. Where a witness in any such matter is without the limits of Ontario, or where by reason of his illness or otherwise, the Court does not think fit to enforce the attendance of the witness in open court, any Surrogate Court may order a commission to issue for the examination of such witness on oath upon interrogatories or otherwise, or if the witness be within the jurisdiction of the Court, may order the examination of such witness on oath upon interrogatories or otherwise, before any person to be named in such order for the purpose. R. S. O. 1877, c. 46, s. 25.

Provisions of
certain Acts
to apply.

28. All the powers given to the County Courts by law for enabling the said Courts to issue commissions and make orders for the examination of witnesses in actions depending in such Courts and to enforce such examination; and all the provisions of law relating to County Courts for enforcing examinations or otherwise, applicable thereto and to the witnesses examined, shall extend and be applicable to the Surrogate Courts, and to the examination of witnesses under the commis-

sions and orders of the said Courts, and to the witnesses examined, as if such Courts were County Courts, and the matter before them respectively were an action pending in a County Court. R. S. O. 1877, c. 46, s. 26.

Rules of Evidence.

29. The rules of evidence observed in the High Court shall be applicable to and observed in the trial of all questions of fact in the Surrogate Courts. R. S. O. 1877, c. 46, s. 27.

Rules of evidence in High Court to be observed.

REFERENCE OR REMOVAL TO THE HIGH COURT.

30. In every case in which there is contention as to the grant of probate or administration, and the parties in such case thereto agree, the contention shall be referred to and determined by the High Court on a case to be prepared, and the Surrogate Court having jurisdiction in the matter shall not grant probate or administration until the contention is terminated and disposed of by judgment, or otherwise. R. S. O. 1877, c. 46, s. 28.

In cases of contention, the matter may, by consent, be referred for adjudication to the High Court.

31.—(1) Any cause or proceeding in the Surrogate Courts in which any contention arises as to the grant of probate or administration, or in which any disputed question may be raised (as to law or facts), relating to matters and causes testamentary, shall be removable by any party to the cause or proceeding into the High Court by order of a Judge of the said Court, to be obtained on a summary application supported by affidavit, of which reasonable notice shall be given to the other parties concerned.

In certain cases of contention, matter to be removed into High Court.

(2) The Judge making the order may impose such terms as to payment or security for costs or otherwise as to him seems fit; but no cause or proceeding shall be so removed unless it is of such a nature and of such importance as to render it proper that the same should be withdrawn from the jurisdiction of the Surrogate Court and disposed of by the High Court, nor unless the personal estate of the deceased exceeds \$2,000 in value. R. S. O. 1877, c. 46, s. 29.

Terms as to costs.

Certain cases not to be so removed.

32. Upon any cause or proceeding being so removed as aforesaid, the High Court shall have full power to determine the same, and may cause any question of fact arising therein to be tried by a jury, and otherwise deal with the same as with any cause or claim originally entered in the said Court; and the final order or judgment made by the said Court in any cause or proceeding removed as aforesaid, shall, for the guidance of the Surrogate Court, be transmitted by the Surrogate Clerk to the Registrar of the Surrogate Court from which the cause or proceeding was removed. R. S. O. 1877, c. 46, s. 30.

Power of High Court and transmission of final order to Surrogate Court.

APPEALS TO THE COURT OF APPEAL.

Persons considering themselves aggrieved by any judgment, etc., may appeal to the Court of Appeal.

Appeals not to lie in certain cases.

33 Any person considering himself aggrieved by any order, sentence, or judgment of a Surrogate Court, or being dissatisfied with the determination of the Judge thereof in point of law in any matter or cause under this Act, may, within fifteen days next after such order, sentence, judgment, or determination, appeal therefrom to the Court of Appeal or to a single Judge of such Court, in the manner and, subject to the regulations provided for by the Rules and Orders respecting the Surrogate Courts heretofore in force, or by Rules or Orders made under this Act; and the said Court of Appeal or Judge shall hear and determine such appeal; but no such appeal shall be had or lie unless the value of the goods, chattels, rights or credits to be affected by such order, sentence, judgment, or determination exceeds \$200; and in case of an appeal to a single Judge, he may, in his discretion, and upon such terms as he thinks proper, refer the appeal to the said Court of Appeal. R. S. O. 1877, c. 46, s. 31.

PRACTICE.

Proofs to lead grant.

Practice of the Courts, general rule as to.

34. Unless otherwise provided by this Act or by the Rules or Orders respecting Surrogate Courts heretofore in force, or hereafter to be made under this Act, the practice of the Surrogate Courts shall, so far as the circumstances of the case will admit, be according to the practice in Her Majesty's Court of Probate in England, as it stood on the 5th day of December, 1859. R. S. O. 1877, c. 46, s. 32.

Proof, etc., requisite for obtaining grant of probate of administration where deceased resided in Ontario.

35. On every application to a Surrogate Court for probate of will or letters of administration where the testator or intestate was resident in Ontario at the time of his death, the place of abode of the testator or intestate at the time of his death shall be made to appear by affidavit of the person or some one of the persons applying for the same; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration (as the case may be) may be granted under the seal of the Surrogate Court to which the application has been so made; and the probate or letters of administration shall have effect over the personal estate of the deceased in all parts of Ontario. R. S. O. 1877, c. 46, s. 33.

Effect of probate or administration.

When testator, etc., had no fixed place of abode in or resided out of Ontario, upon what proof probate or administration to be granted, etc.

36. On every application for probate of a will or letters of administration where the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or some one of the persons applying for the probate or administration, and that the deceased died leaving personal or real property within the county in the Surrogate Court of which the

application is made, or leaving no personal or real property in Ontario, as the case may be, and that notice of the application has been published at least three times successively in the *Ontario Gazette*; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted under the seal of such Surrogate Court; and the probate or letters of administration shall have effect over the personal estate of the deceased in all parts of Ontario. R. S. O. 1877, c. 46, s. 34.

37. The affidavit as to the place of abode and personal property of a testator or intestate under the next preceding two sections, for the purpose of giving a particular Court jurisdiction, shall be conclusive for the purpose of authorizing the exercise of such jurisdiction; and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the testator or intestate had no fixed place of abode within the particular county at the time of his death, or had not personal or real estate therein at the time of his death; and every probate and administration granted by a Surrogate Court shall effectually discharge and protect all persons paying to or dealing with any executor or administrator thereunder, notwithstanding the want of or defect in such affidavit as is hereby required; but in case it is made to appear to the Judge of a Surrogate Court before whom any matter is pending under this Act, that the place of abode of the testator or intestate, or the situation of his property, has not been correctly stated in the affidavit, the Judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he thinks just. R. S. O. 1877, c. 46, s. 35.

Affidavit grounding application for grant to be conclusive for exercise of jurisdiction, unless shewn to be incorrect.

But the Judge may stay proceedings in case of incorrect statement.

38. In case application is made for letters of administration by a person not entitled to the same as next of kin to the deceased, the next of kin or others having or pretending interest in the personal estate of the deceased resident in Ontario, shall be cited or summoned to see the proceedings, and to shew cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased happens to reside in Ontario, then a copy of the citation or summons shall be served or published in such manner as may be provided for by any Rules or Orders in that behalf. R. S. O. 1877, c. 46, s. 36.

Proof, etc., requisite for obtaining grant to party not next of kin to intestate.

39. If the next of kin, usually residing in Ontario and regularly entitled to administer, happens to be absent from Ontario, the Surrogate Court having jurisdiction in the matter may, in its discretion, grant a temporary administration, and appoint the applicant, or such other person as the Court thinks fit, to be administrator of the personal estate of the deceased person for a limited time, or to be revoked upon the return of such next of kin as aforesaid. R. S. O. 1877, c. 46, s. 37.

Temporary administration in certain cases.

Security to be given.

40. The administrator so appointed shall give such security as the Court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the Court. R. S. O. 1877, c. 46, s. 38.

Notice of Applications.

As to transmission of notice of applications for grants of probates, &c., to Surrogate Clerk by Registrars.

41. In case of an application to a Surrogate Court for the grant of probate or administration, notice thereof shall, by the Registrar of the Court, by letter post paid, be transmitted to the Surrogate Clerk by the next post after the application, and the notice shall specify the name and description or addition, if any, of the testator or intestate, the time of his death, and the place of his abode at his decease, as stated in the affidavit or affidavits made in support of the application, and the name of the person by whom the application has been made, and such other particulars as may be directed by the Rules or Orders in that behalf. R. S. O. 1877, c. 46, s. 39.

Proceedings to be stayed till certificate received from Surrogate Clerk.

42. Unless upon special order or judgment of the Surrogate Court, no probate or administration shall be granted in pursuance of the application until the Registrar has received a certificate, under the hand of the Surrogate Clerk, that no other application appears to have been made in respect of the goods of the same deceased person, which certificate the Surrogate Clerk shall forward as soon as may be to the Registrar. R. S. O. 1877, c. 46, s. 40.

Surrogate Clerk to file notices.

43. All notices in respect of applications in the several Surrogate Courts shall be filed and kept by the Surrogate Clerk. R. S. O. 1877, c. 46, s. 41.

Duty of Surrogate Clerk with reference to notices.

44. The Surrogate Clerk shall, with reference to every such notice, examine all notices of such applications received from the several other Surrogate Court Registrars, so far as appears to be necessary, to ascertain whether or no application for probate or administration in respect of the goods of the same deceased person has been made in more than one Surrogate Court, and he shall communicate with the Surrogate Court Registrars as occasion may require in relation to such applications. R. S. O. 1877, c. 46, s. 42.

Proceedings if application has been made to more than one Surrogate Court.

45. In case it appears by the certificate of the Surrogate Clerk that application for probate or administration has been made to two or more Surrogate Courts, the Judges of such Courts respectively shall stay proceedings therein, leaving the parties to apply to one of the Judges of the High Court to give such direction in the matter as to him seems necessary. R. S. O. 1877, c. 46, s. 43.

Judgment as to what Court shall have jurisdiction.

46. On application made to such Judge of the High Court, he shall inquire into the matter in a summary way.

and adjudge and determine what Surrogate Court has jurisdiction and shall proceed in the matter. R. S. O. 1877, c. 46, s. 44.

47. The Judge of the High Court may order costs to be paid by any of the applicants, and the order shall be enforced by the High Court. R. S. O. 1877, c. 46, s. 45.

Order as to costs.

48. The determination of the Judge shall be final and conclusive, and so soon as may be after the determination has been made, the Surrogate Clerk shall transmit a certified copy thereof to the Registrars of the several Surrogate Courts wherein such applications as aforesaid have been made. R. S. O. 1877, c. 46, s. 46.

Judge's decision to be final.

Caveats.

49. Caveats against the grant of probate or administration may be lodged with the Surrogate Clerk or with the Registrar of any Surrogate Court, and, subject to any Rules or Orders under this Act, the practice and procedure under such caveats shall as nearly as may be correspond with the practice and procedure under caveats in use on the 5th day of December, 1859, in Her Majesty's Court of Probate in England. R. S. O. 1877, c. 46, s. 47.

Practice respecting caveats.

50. Immediately on a caveat being lodged in a Surrogate Court, the Registrar of the Court shall send a copy thereof to the Surrogate Clerk to be entered among the caveats lodged with him, and upon notice of application by the Registrar of a Surrogate Court under section 41 being received, the Surrogate Clerk shall forward to the Registrar, so soon as may be, notice of any caveat that has been so lodged as aforesaid touching such application, and the notice shall accompany or be embodied with the certificate mentioned in section 42. R. S. O. 1877, c. 46, s. 48.

Notice of caveats to be transmitted to the proper Surrogate Courts.

Proof of Wills in Solemn Form.

51. Where proceedings are taken under this Act for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other contentious cause or matter under this Act the validity of a will is disputed, unless the will affects only personal estate, the heir or heirs at law, devisees or other persons having or pretending to have any interest in the real estate affected by the will, may, subject to the provisions of this Act and to the Rules and Orders relating to Surrogate Courts heretofore in force or hereafter to be made under this Act, be cited to see proceedings or be otherwise summoned in like manner as the next of kin or others having or pretending interest in the personal estate affected by a will should be cited or summoned, and may be permitted to become parties, subject to such Rules and Orders and to the discretion of the Court; but nothing herein con-

Where a will affecting real estate is proved in solemn form, or is the subject of contentious proceedings, heirs, etc., may be cited.

tained shall make it necessary to cite the heirs at law, or other person having or pretending interest in the real estate of a deceased person, unless the Court with reference to the circumstances of the case, directs the same to be done. R. S. O. 1877 c. 46, s. 49.

COPIES OF WILLS.

Official copy of the whole or part of a will may be obtained.

52. An official copy of the whole or any part of a will, or an official certificate of the grant of any letters of administration, may be obtained from the Registrar of the Surrogate Court where the will has been proved or the administration granted, on payment of such fees as may be fixed for the same by the Rules and Orders heretofore in force or hereafter made under this Act. R. S. O. 1877, c. 46, s. 50.

ADMINISTRATION PENDENTE LITE.

Administration *pendente lite* may be granted.

Rights and powers of the administrator.

53. Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the Court in which an action is pending may appoint an administrator of the personal estate of the deceased person; and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the personal estate; and every such administrator shall be subject to the immediate control of the Court and act under its direction; and the Court may direct that such administrator shall receive out of the personal estate of the deceased such reasonable remuneration as the Court thinks fit. R. S. O. 1877, c. 46, s. 51.

ADMINISTRATION WITH WILL ANNEXED.

Administration with the will annexed, practice as to, etc.

54. Where administration is granted with the will annexed, a bond shall (unless it is otherwise provided by law) be given to the Judge of the Court as in other cases and with like effect and unless otherwise provided for by this Act or the Rules or Orders relating to Surrogate Courts from time to time in force, the practice and procedure in respect to such administrations and in respect to such bonds and the assignment thereof shall, so far as the circumstances of the case will admit, be according to the practice in such cases in Her Majesty's Court of Probate in England, on the 5th day of December, 1859. R. S. O. 1877, c. 46, s. 52.

Applicant for administration to depose to value of the realty in certain cases.

55. In every case where any person applies to be appointed an administrator with the will annexed, and a bond is by law required to be given, he shall in his application state, and in his affidavit of the value of the property devolving shall depose to the value or probable value of all the real estate over which, or over any estate in which, the executor or executors named in the will or codicil were by the said will or codicil clothed

with any power of disposition, or of all the real estate, which in case of no executor being appointed, was by the will or codicil directed to be disposed of, without any person being appointed to effect such disposition; and in every such case the bond to be given by such person upon his obtaining a grant of administration with the said will annexed, shall, as respects the amount of the penalty of the bond, and the justification of the sureties, include the amount of the value or probable value so stated and deposed to; and the condition of the bond, in addition to the other provisions thereof, shall provide that the administrator shall well and truly pay over and account for, to the person or persons entitled to the same, all moneys and assets to be received by him for or in consequence of the exercise by him of any power over real estate created by the will or codicil, and which may be exercised by him. R. S. O. 1877, c. 46, s. 53.

POWER AS TO APPOINTMENT OF ADMINISTRATOR.

56. Where a person has died wholly intestate as to his personal estate, or leaving a will affecting personal estate, but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the Court to be necessary or convenient in such case, by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the personal estate of the deceased or of any part of such personal estate other than the person who if this Act had not been passed would by law have been entitled to a grant of administration to such personal estate, it shall not be obligatory upon the Court to grant administration of the personal estate of such deceased person to the person who if this Act had not passed would by law have been entitled to a grant thereof, but the Court in its discretion may appoint such person as the Court thinks fit upon his giving such security (if any) as the Court directs, and every such administration may be as limited as the Court thinks fit. R. S. O. 1877, c. 46, s. 54.

57. After a grant of administration no person shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the personal estate comprised in or affected by such grant of administration, until such administration has been recalled or revoked. R. S. O. 1877, c. 46, s. 55.

58. A person entitled to take out letters of administration to the estate of a deceased person is entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. 50 V. c. 7, s. 34.

REVOCATION OF TEMPORARY GRANTS.

Revocation of temporary grants of administration not to prejudice actions.

59. In case, before the revocation of any temporary administration, proceedings have been commenced by or against the administrator so appointed, the Court in which the proceedings are pending may order that a suggestion be made upon the record of the revocation of such administration, and of the grant of probate or administration which has been made consequent thereupon, and the proceedings shall be continued in the name of the new executor or administrator in like manner as if the proceedings had been originally commenced by or against such new executor or administrator, but subject to such conditions and variations, if any, as the Court may direct. R. S. O. 1877, c. 46, s. 56.

VALIDITY OF PAYMENTS UNDER REVOKED GRANTS.

Payments under probate or administration afterwards revoked to be valid.

60. In case any probate or administration is revoked under this Act, all payments *bona fide* made to any executor or administrator under such probate or administration before the revocation thereof, shall be a legal discharge to the person making the same; and the executor or administrator who has acted under such revoked probate or administration may retain and reimburse himself in respect of payments made by him which the person to whom probate or administration may be afterwards granted might have lawfully made. R. S. O. 1877, c. 46, s. 57.

Persons, etc., making payment upon probate granted to be indemnified, etc.

61. All persons and corporations making or permitting to be made any payment or transfer *bona fide* upon any probate or letters of administration granted in respect of the estate of any deceased person under the authority of this Act, shall be indemnified and protected in so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of the probate or letters of administration. R. S. O. 1877, c. 46, s. 58.

EXECUTOR RENOUNCING.

Right of executor renouncing probate, to cease absolutely.

62. Where a person renounces probate of the will of which he is appointed executor (or one of the executors), his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his effects shall and may without any further renunciation go, devolve and be committed in like manner as if he had not been appointed executor. R. S. O. 1877, c. 46, s. 59.

SECURITIES.

Repeal of certain provisions requiring sureties to administrator, 21 H. viii, c. 5, 22-3 Car. ii, c. 10; 1 Jas. ii, c. 17.

63. So much of the Act passed in the 21st year of King Henry the Eighth, and chaptered 5, and of the Act passed in the 22nd and 23rd years of King Charles the Second, and chaptered 10, and of the Act passed in the 1st year of King James the Second, and chaptered 17, as requires any surety, bond or other security to be taken from a person to whom

administration may be committed, shall not extend to or be in force in Ontario. R. S. O. 1877, c. 46, s. 60.

64. Except where otherwise provided by law, every person to whom a grant of administration is committed shall give a bond to the Judge of the Surrogate Court from which the grant is made, to enure for the benefit of the Judge of the Court for the time being (or in case of the separation of counties, to enure for the benefit of any Judge of a Surrogate Court to be named by the High Court, for that purpose), with one or more surety or sureties as may be required by the Judge of such Surrogate Court, conditioned for the due collecting, getting in and administering the real and personal estate of the deceased, and the bond shall be in the form prescribed by the rules and orders now in force or hereafter made under this Act; and in cases not provided for by such rules and orders, the bond shall be in such form as the Judge of the Surrogate Court may by special order direct. R. S. O. 1877, c. 46, s. 61; 49 V. c. 22, s. 4 (5).

Persons receiving grants of administration to give bonds, etc.

65. Subject to the provisions of section 55 of this Act, the bond shall be in a penalty of double the amount under which the real and personal estate and effects of the deceased have been sworn, unless the Judge thinks fit to direct (as he may do) that the same shall be reduced, and the Judge may also direct that more bonds than one may be given, so as to limit the liability of any surety to such amount as the Judge thinks reasonable. R. S. O. 1877, c. 46, s. 62; 49 V. c. 22, s. 4 (5).

Penalty in bonds, etc., and as to dividing liabilities of sureties.

66. The Judge of every Surrogate Court, on application made on motion or petition in a summary way, and on being satisfied that the condition of the bond has been broken, may order the Registrar of the Court to assign the same to some person to be named in the order, and such person, his executors or administrators, shall thereupon be entitled to sue on the said bond in his own name, as if the same had been originally given to him, instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond; and all bonds heretofore given or taken in any Surrogate Court, and now in force, may in like manner be assigned under the authority of the Judge of a Surrogate Court, and the assignee shall be entitled to sue and recover thereon in his own name, and the same may be enforced in the same way and to the same extent as bonds given under this Act. R. S. O. 1877, c. 46, s. 63.

Power of Surrogate Courts as to assignment of bonds.

ESTATES OF SMALL VALUE.

67. Where the whole estate and effects, real and personal, of any testator or intestate do not exceed in value the sum of \$200, his widow, or one or more of his children or next of kin, or his executors, or any trustee, or duly authorized solicitor or agent of such widow, child, next of kin or

Proceedings in Surrogate Court for administration.

executors may apply to the Judge of the Surrogate Court within the County in which the testator or intestate had his fixed place of abode at the time of his death, and the Registrar of the said Court shall fill up the usual papers required by the Surrogate Court to lead to a grant of probate of the will of the testator or letters of administration of the estate and effects of the said testator or intestate, and shall swear the applicant and attest the execution of the administration bond according to the practice of the said Court, and shall then transmit a notice of the application by post to the Surrogate Clerk at Toronto; and the Registrar, on obtaining the approval or order of the Judge of the Surrogate Court, shall in due course make out and seal the probate of the will of the testator, or letters of administration of the estate and effects of the testator or intestate to be delivered to the party so applying for the same without the payment of any fee for the same, save as is provided by section 69 of this Act. R. S. O. 1877, c. 46, s. 64.

Proof of relationship.

Judge to be satisfied that the value of the estate is less than \$200.

68. The Judge of the Surrogate Court may require such proof as he may think sufficient to establish the identity and relationship of the applicant; and if the Judge has reason to believe that the whole estate and effects of which the testator or intestate died possessed exceed in value the sum of \$200, he shall refuse to proceed with the application under the last preceding section until he is satisfied as to the real value thereof. R. S. O. 1877, c. 46, s. 65.

Scale of fees.

69. Such fees as the Lieutenant-Governor in Council may think proper, shall be payable to the Judges and Registrars of the Surrogate Courts, on proceedings under sections 67 and 68, but the total amount for all proceedings and services to be charged to applicants, shall not in any one case exceed the sum of \$2. R. S. O. 1877, c. 46, s. 66.

FEEES AND COSTS.

As to fees payable to the Crown.

Rev. Stat. c. 22.

Stamp to be attached to order for grant of probate.

70.—(1) The fees mentioned in Schedule A to this Act shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*, on proceedings under this Act, and shall belong to and form part of the Consolidated Revenue Fund of this Province. R. S. O. 1877, c. 46, s. 68.

(2) The stamps for all fees payable to the Consolidated Revenue Fund of the Province in respect of a grant of probate or administration shall be affixed to the order for the grant, and not to the probate or letters of administration. 45 V. c. 11, s. 3.

As to fees to be taken by Judges, etc., to their own use.

71. Subject to the provisions of section 73, the Judges of the several Surrogate Courts may demand and take to their own use the fees mentioned in Schedule B to this Act, and such fees shall be collected by the Registrars of the said Courts on or before each proceeding and paid over to the Judges, and annual returns of such fees, up to the 31st day of December

in each year, shall be made by the Registrars on or before the 1st day of February in each year. R. S. O. 1877, c. 46, s. 69.

72. The fees payable on proceedings under this Act shall be based on the amount of what, before the 1st day of July, 1886, was personal property. 49 V. c. 22, s. 4 (6). On what property fees to be charged.

73.—(1) The Lieutenant-Governor in Council may, with the consent of any County Court or Surrogate Court Judge, commute the fees payable to him under this Act for a fixed annual sum; such sum not to exceed the income derived from such fees in some preceding year: and any sum so fixed may, as vacancies occur, be rescinded, or may be varied and the amount increased or diminished; provided that in no case shall any Order in Council name a sum exceeding the receipts for fees during some preceding year. Commutation of fees of Judges.

(2) In case of commutation, the like sums and fees heretofore payable to the Judge shall continue to be payable, and shall form part of the Consolidated Revenue Fund of this Province, and shall be payable in stamps, subject to the provisions of *The Act respecting Law Stamps*. Rev. Stat. c. 22.

(3) Where there is no commutation and the fees aforesaid exceed the sum of \$1,000 in any year, the excess shall be received by the Registrar and paid over to the Treasurer of the Province for the uses of the Province.

(4) The preceding sub-section shall not apply so as to reduce the amount payable to the Judge in any year to a sum less than the aggregate amount of the fees payable to him for such year in respect of fees provided for by the Consolidated Statutes of Upper Canada, chapter 16, schedule "B," and exclusive of the additional fees assigned to Surrogate Judges by the Act passed in the 40th year of Her Majesty's reign, chapter 7, schedule A (65).

(5) Out of the excess aforesaid a sum not exceeding \$666 may on the authority of an Order in Council be paid to the Junior Judge of the County (if any). 44 V. c. 5, s. 79.

74. The Registrars and officers of the Surrogate Courts, and Barristers and Solicitors practising therein, shall be entitled to take for the performance of duties and services under this Act, such fees as may be fixed under the provision hereinafter contained. R. S. O. 1877, c. 46, s. 70. Fees to officers.

75. The table of fees fixed by the Judges appointed in pursuance of section 14 of *The Surrogate Courts Act*, 1858, to be taken by the Registrars and officers of the Surrogate Courts, and by Barristers and Solicitors practising therein in respect to business under that Act, and the fees to be payable in respect of searches, inspection and copies of and extracts from records, Judges may alter the amount of fees as fixed under 22 V. c. 93, s. 14.

No other fees
to be taken.

wills and other documents in the custody of or under the control of the Surrogate Courts respectively, are hereby continued, until altered under the authority of this Act; and no other fees than those specified and allowed in the tables or than the altered fees (as the case may be) shall be taken or received by such Registrars, Officers, Barristers and Solicitors. R. S. O. 1877, c. 46, s. 71.

Tariff of costs.
Rev. Stat.
c. 51.

76.—(1) The Board of County Judges appointed under section 297 of *The Division Courts' Act*, or the majority of them, may frame a tariff of fees and costs to be allowed in respect of proceedings in the Surrogate Courts to witnesses and to solicitors and counsel practising therein, and may from time to time alter and amend the same, and may frame separate tariffs for contentious and non-contentious business.

(2) The Board or any three of them shall certify to the Judges authorized to make rules under section 105 or section 108 of *The Judicature Act*, any tariff so framed, or any alteration thereof, and any Judges authorized to make rules under the said Act may approve, disallow or amend any such tariff or alterations.

(3) Any tariff or alteration so approved of, or amended and approved, shall have the same force and effect as if it had been enacted by the Legislature of this Province. 48 V. c. 13, s. 25.

Taxation of
costs.

77. The bill of any solicitor for any fees, charges or disbursements in respect of business transacted in a Surrogate Court, whether contentious or otherwise, or any matter connected therewith, shall, as well between solicitor and client as between party and party, be subject to taxation in such Surrogate Court, and the mode in which the bill shall be referred for taxation, and the person by whom the costs of taxation shall be paid, shall be regulated by the rules and orders heretofore in force or hereafter made under this Act and the certificate of the Registrar of the amount at which the bill is taxed shall be subject to appeal to the Judge of the Court. R. S. O. 1877, c. 46, s. 72.

RULES OF COURT.

Surrogate
Court rules.

78.—(1) The Judges of the Supreme Court of Judicature and of the High Court respectively shall have the same authority to make rules of Court with respect to the Surrogate Courts as, by section 105 of *The Judicature Act*, they have with respect to the High Court; and the Judges authorized as mentioned in section 108 shall with respect to the Surrogate Courts have the like authority.

22 V. c. 93,
s. 14.

(2) The general rules and orders made by the Judges appointed in pursuance of section 14 of *The Surrogate Courts Act*, 1858, are hereby continued until altered under the authority of this section. 48 V. c. 13, s. 24 (1, 2).

SCHEDULE A.

(Section 70.)

FEES PAYABLE TO THE CROWN.

On proceedings in the offices of Registrars.

	\$	c.
On every application for probate or administration or for guardianship (including notice thereof to Surrogate Clerk, but not postage)	0	50
On certificate of Surrogate Clerk upon such application (including transmission to Registrar, but not postage).....	0	50
On every instrument or process with seal of Court.....	0	50
Entry and notification of caveat, not including postage.....	0	50
On every grant of probate or administration, as follows, viz :		
Where the property devolving is under \$1,000.....	0	50
For every additional \$1,000.....	0	50
On every final judgment in contentious or disputed cases.....	1	00
On deposit of wills for safe custody, each	0	50

On proceedings in the office of the Surrogate Clerk.

On every search for grant of probate, administration, guardianship, or other matter in Clerk's office (other than searches on application of Registrars)	0	50
On every certificate of search or extract.....	1	00
(if exceeding three folios, 10 cents per folio.)		
On every other certificate issued by the Surrogate Clerk.....	0	50
On every order made on application to a Judge in the High Court and transmission of same, exclusive of postage.....	0	80
On entry of every appeal.....	1	00
On every judgment on appeal and transmission, exclusive of postage	3	00
On entry of caveat.....	0	50
On every judgment or order on appeal.....	2	50

R. S. O. 1877, c. 46, Sched. A.

SCHEDULE B.

(Section 71.)

FEES ALLOWED TO JUDGE.

On every grant of probate or administration :		
Where the property devolving is under \$1,200.....	2	00
Where the property devolving is from \$1,200 to \$3,000....	3	00
Where the property devolving is from \$3,000 to \$4,000....	4	00
And so for every additional \$1,000, the additional sum of...	1	00
On every appointment of a guardian.....	2	00
On every order.....	0	50
On every special attendance, or attendance for purpose of audit..	1	00
For every day's sittings in contentious or disputed cases.....	2	00
On evidence if taken before Judge (per folio).....	0	20

R. S. O. 1877, c. 46, Sched. B.

CHAPTER 51.

An Act respecting the Division Courts.

SHORT TITLE, s. 1.	COSTS, ss. 207-210.
INTERPRETATION, s. 2.	PROCEEDINGS NOT TO BE SET ASIDE FOR WANT OF FORM, s. 211.
CONSTITUTION OF COURTS—	PROCEEDINGS TO ENFORCE JUDGMENTS—
Nature of and number in each County, ss. 3-7.	Execution, ss. 212-234.
Time and place of holding, ss. 8-12.	Examination of Judgment debtors, ss. 235-248.
Alteration of Divisions and establishment of new Divisions, ss. 13, 14.	Absconding debtors, ss. 249-267.
Establishment on separation of United Counties, ss. 15-20.	CLAIMS OF LANDLORDS AND OTHERS IN RESPECT TO GOODS SEIZED, ss. 268-274.
JUDGES, ss. 21-25.	OFFENCES AND PENALTIES—
CLERKS AND BAILIFFS, SECURITY BY, DUTIES AND FEES OF, ss. 26-60, 67, 68.	Contempt of Court, s. 275.
INSPECTOR—	Resisting officers, s. 276.
Duties, ss. 61, 62.	Misconduct of officers, s. 277.
Clerks and Bailiffs to report to, ss. 63-66.	Extortion by officers, s. 278.
JURISDICTION OF COURTS, ss. 69-79.	Negligence of officers, ss. 279-281.
PROCESS AND PROCEDURE, ss. 80-130.	ENFORCEMENT OF FINES, ss. 282-284.
WITNESSES AND EVIDENCE, ss. 131-143.	PROTECTION OF OFFICERS ACTING UNDER WARRANTS, ss. 285-288.
JUDGE'S DECISION, ss. 144-147.	GENERAL PROVISIONS AS TO ACTIONS FOR THINGS DONE UNDER THIS ACT, ss. 289-292.
APPEALS, ss. 148-153.	DISPOSAL OF FINES, s. 293.
JURY CASES, ss. 154-172.	DISPOSAL OF MONEY IN COURT, ss. 294-296.
PROCEEDINGS TO GARNISH DEBTS, ss. 173-199.	GENERAL RULES AND ORDERS, ss. 297-304.
ARBITRATIONS, ss. 200-204.	
CONFESSIONS OF DEBT, ss. 205, 206.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Division Courts Act.*" R. S. O. 1877, c. 47, s. 1.

Interpreta-
tion. 2. In the construction of this Act,
County,"

"County" shall include two or more counties united for judicial purposes; and in any form or proceeding the words "United Counties" shall be introduced where necessary. R. S. O. 1877, c. 47, s. 2.

THE COURTS.

3. The Division Courts, and the limits and extent thereof existing at the time this Act takes effect, shall continue until altered by law. R. S. O. 1877, c. 47, s. 3. Courts continued.

4. There shall not be less than three or more than twelve Division Courts in each county, of which Division Courts there shall be at least one in each city and county town. R. S. O. 1877, c. 47, s. 4. Number of Courts in counties, cities and towns

5. The Court in each division shall be called "The First Division Court in the county of _____," Court. Designation of
(or as the case may be). R. S. O. 1877, c. 47, s. 5.

6. Every Division Court shall have a seal, with which all process of the Court shall be sealed or stamped, and such seal shall be paid for out of the Consolidated Revenue Fund. R. S. O. 1877, c. 47, s. 6. Each Court to have a seal.

7. The Division Courts shall not be held to constitute Courts of Record, but the judgments in the said courts shall have the same force and effect as judgments of Courts of Record. R. S. O. 1877, c. 47, s. 7. Not to be Courts of Record.

8. A court shall be holden in each division once in every two months, or oftener in the discretion of the senior or the acting County Judge; and the Judge may appoint and from time to time alter the times and places within such divisions, when and at which such courts shall be holden. R. S. O. 1877, c. 47, s. 8. Time and place of holding Courts.

9. Notwithstanding anything contained in this Act, or any of the general rules in force in the Division Courts of this Province, in any city in which two Division Courts are established or held, all or any of the sittings of both of such courts may be appointed and held in any of such divisions, and both clerks of such courts may, with the approval of the Lieutenant-Governor in Council, have and keep their offices in the same division in such city. 43 V. c. 8, s. 41. Holding Courts in cities.

10.—(1) The municipality in which a Division Court is held shall furnish a court room and other necessary accommodation for holding said court, not in connection with an hotel. Division Courts accommodation.

(2) In case a proper court room, and other necessary accommodation for the holding of the Division Court are not furnished by the municipality in which the court is held, the Judge may hold the court in any suitable place in the division, or in any other division of the county in which suitable accommodation is provided; and the owner, lessee or tenant of the build- If there be no proper Court-room, etc., the Judge may hold Court in any suitable place.

Expenses for rent.

ing in which the court is so held, shall for the use of the building be entitled to receive from the municipality whose duty it was to provide proper accommodation for the court, the sum of \$5 for every day on which the court is held in the building. R. S. O. 1877, c. 47, s. 9.

Judge to apportion cost in certain cases.

(3) Where a municipality, not being a town or city, furnishes a court room and other necessary accommodation for a Division Court as aforesaid, or pays any owner, lessee, or tenant, for the use of any building, it shall be entitled to recover from any other municipality wholly or partly within the division for which such court is held, such reasonable share of the cost of providing accommodation for holding the court as shall in that behalf be decided and ordered by the Judge of the said court, to be paid and contributed by the latter municipality; and in every such case the total cost of providing such accommodation for holding the court shall be deemed to be \$5 for every day on which the court is held. 48 V. c. 14, s. 12.

Use of Court House.

11. The sittings of the Division Court in a county town may be held in the county court house, and, in the cases of cities and towns separated from the county, the use of the court house for such purpose may be taken into account in settling the proportion of the charges to be paid by the city or town for the maintenance of the court house. 43 V. c. 8, s. 42.

The Lieutenant-Governor may, in certain cases, regulate holding of Courts.

12. If the Justices of the Peace for a county, in General Sessions assembled, certify to the Lieutenant-Governor that in any division of the county, from the amount of business, remoteness or inaccessibility, it is expedient that the court should not be held so often as once in every two months, the Lieutenant-Governor in Council may order the court to be held at such periods as to him seems meet, and may revoke the order at pleasure, but a court shall be held in the division at least once in every six months. R. S. O. 1877, c. 47, s. 10.

Alteration of number and limits of divisions.

13.—(1) The County Judge, the sheriff, the warden of the county, and the Division Court inspector may, subject to the restrictions in this Act contained, appoint, and from time to time alter the number, limits and extent of every division, and shall number the divisions, beginning at number one, but no resolution or order made under the provisions of this section shall be altered or rescinded, unless public notice of the intention so to alter or rescind, or that application will be made to alter or rescind is made and proclaimed in open Court at the next previous sittings of the General Sessions of the Peace.

(2) The Judge shall cause the sheriff, warden and inspector to be notified of any application, and of the time and place at which the same will be considered. 49 V. c. 15, s. 1.

14.—(1) The Judge of a County Court may, in his discretion, upon the petition of the Municipal Council of any township or united townships in which no Division Court has already been established, praying that a Division Court may be established in and for such township or united townships, establish and hold a Division Court therein and the court so established shall be numbered and called the Establishment by the County Judge of a Division Court in Townships, on petition of Township Council. Division Court of the county in which such township or united townships is or are situated, taking the number next after the highest number of the courts then existing in such county.

(2) No business shall be transacted in such court until after the establishment thereof has been certified by the County Judge to the Lieutenant-Governor in Council, together with the petition praying for the same, nor until after an order has been passed by the Lieutenant-Governor in Council approving thereof. Court must be confirmed by Lieutenant-Governor in Council. R. S. O. 1877, c. 47, s. 12.

15. Where a junior county separates from a senior county or union of counties, the Division Courts of the united counties which were before the separation wholly within the territorial limits of the junior county, shall continue to be Division Courts of the junior county, and all proceedings and judgments shall be had therein, and shall continue proceedings and judgments of the said Division Courts respectively; and all such Division Courts shall be known as Division Courts of such junior county by the same numbers respectively as they were before, until the Judge of the County, the sheriff, the warden of the county and the inspector of the Division Courts, appoint the number, limits and extent of the divisions for Division Courts within the limits of such junior county, as provided in section 13 of this Act. On separation of junior from senior county. Courts to continue same till altered by Sessions. R. S. O. 1877, c. 47, s. 13; 49 V., c. 15, s. 2.

16. Where the Judge of the county, the sheriff, the warden of the county, and the inspector of Division Courts, alter the number, limits or extent of the Division Courts within such county, all proceedings and judgments had in any Division Court before the day when such alteration takes effect shall be continued in such Division Court of the county as the Judge directs; and shall be considered proceedings and judgments of such court. On alteration of divisions, Judge to direct in what Court proceedings to be continued. R. S. O. 1877, c. 47, s. 14; 49 V. c. 15, s. 3.

17. In case a junior county is separated from a union of counties, or the proceedings of any of the Division Courts of a senior county are transferred to another Division Court within the county upon the order of the Judge, the clerks or other officers of such Division Courts who hold any writs or documents appertaining to such courts or the business thereof, shall deliver up the same to such persons as the Judge directs, and any person refusing to deliver up the same shall be liable to be proceeded against in the same manner as persons Clerks and officers to deliver papers to such persons as Judge directs.

wrongfully holding papers and documents under the provisions of section 50 of this Act. R. S. O. 1877, c. 47, s. 15.

After separation of junior from senior county, proceedings in certain cases to be continued in senior county.

18. If after the separation of a junior county from a union of counties, the territorial limits of any of the Division Courts of the former union are partly within the junior and partly within the senior county, all proceedings commenced in such Division Courts of the former union shall be continued to completion in the court where the proceedings were originally commenced, or in such other Division Court of the senior county as the Judge thereof directs; and the clerks and other officers of the said Division Courts of such senior county in possession of any writs or documents appertaining to any such Court or to the business thereof, shall deliver over the same to the clerk of such Division Court of such county as the Judge thereof directs. R. S. O. 1877, c. 47, s. 16.

Regulation of limits on separation of a county.

19. The Judge of the county, the sheriff, the warden of the county, and the inspector of Division Courts, at a meeting to be called for the purpose, or at any adjourned meeting, shall, within three months after the issue of a proclamation for separating a junior from a senior county, appoint the number, (not less than three, nor more than twelve) the limits and extent of the several divisions within such county, and the time when such change of divisions shall take place, and no resolution or order made under the provisions of this section shall be altered or rescinded, unless public notice of the intention so to alter or rescind is made and proclaimed in open Court at the next previous sittings of the General Sessions of the Peace. 49 V. c. 15, s. 4.

Clerks of the Peace to record time and place for holding Courts.

20. The clerk of the peace, in a book to be by him kept, shall record the divisions declared and appointed, and the times and places of holding the courts, and the alterations from time to time made therein, and he shall forthwith transmit to the inspector of legal offices a copy of the record. R. S. O. 1877, c. 47, s. 18; 47 V. c. 10, s. 16.

THE JUDGE.

County Court Judges to preside.

21.—(1) The Division Courts shall be presided over by the County Court Judges or Junior or Deputy Judges in their respective counties.

Junior Judge to hold Division Courts.

(2) The Junior Judge for the county shall (subject to any other arrangement from time to time made with the Senior Judge or made by the Judges of a County Court District which includes such county) preside over the Division Courts of the county.

Senior Judge to hold Division Courts when expedient.

(3) The appointment of a Junior Judge shall not prevent or excuse the Judge of the County Court from presiding at any of the Division Courts within his county when the public interests require it. R. S. O. 1877, c. 47, s. 19.

22. In case of the illness or absence of the Judge, a Judge Who to pre- of the County Court of any other county may hold the court, side in case of or the first mentioned Judge may appoint some barrister of the illness or ab- Bar of Ontario to act as his deputy; and the Judge of sence of such other County or the barrister so appointed shall, as Judge. Judge of the Division Court, during the time of his appointment, have all the powers and privileges, and be subject to all the duties vested in or imposed by law on the Judge by whom he has been appointed. R. S. O. 1877, c. 47, s. 20.

23. The County Judge so appointing or the barrister so ap- Lieutenant- pointed deputy shall forthwith send to the Lieutenant-Governor Governor to be notice of the appointment, specifying the name, residence and notified of ap- profession of the deputy Judge, and the cause of his appoint- pointment of ment. R. S. O. 1877, c. 47, s. 21. deputy.

24. No such appointment shall be continued for more than Duration of one month without a renewal of the like notice; and in case appointment. the Lieutenant-Governor disapproves of the appointment, he may annul the same. R. S. O. 1877, c. 47, s. 22.

25. In case the Judge or the acting Judge, from illness or Adjournment any casualty does not arrive in time or is not able to open a of Court if Division Court on the day appointed for that purpose, the clerk Judge does or deputy clerk of the court shall after eight o'clock in the not arrive afternoon, by proclamation, adjourn the court to an earlier time. hour on the following day, and so from day to day, adjourning over any Sunday or legal holiday, until the Judge or acting Judge arrives to open the court, or until he receives other directions from the Judge or acting Judge. R. S. O. 1877, c. 47, s. 23.

CLERKS AND BAILIFFS, ETC.

26. For every Division Court there shall be a clerk and a Every Court bailiff or bailiffs, who shall be British subjects, and shall re- to have clerk spectively perform the duties of their office as regulated by Act and bailiffs. of the Legislature and by rules or orders made by the board of County Judges. R. S. O. 1877, c. 47, s. 24.

27. The Lieutenant-Governor may appoint, during pleasure Appointment the clerk and bailiff or bailiffs of any Division Court. of clerks and 43 V. bailiffs. c. 8, s. 33.

28. No clerk of a Division Court shall practise as a bar- Clerk not to rister or solicitor. R. S. O. 1877, c. 47, s. 25; 43 V. c. 8, s. 35. practice as barrister, etc.

29. The Judge of the County Court may at pleasure suspend Removal of or remove any clerk or bailiff within his own county heretofore clerk or appointed by a Judge. bailiff by 43 V. c. 8, s. 36. Judge.

30. The Lieutenant-Governor may, upon the report of the Dismissal of Inspector or of the County Court Judge, dismiss from office for clerks and misconduct or incompetency, any clerk or bailiff heretofore bailiffs. appointed. 43 V. c. 8, s. 32.

Duty of
County Court
Judges.

31.—(1) Nothing in this Act contained shall relieve the County Judge from the responsibility of seeing that the officers of his court perform their duties, or from examining into complaints which may be made against them, or from the duties imposed upon him in reference to the security to be given by clerks and bailiffs, and such last mentioned duties are declared and shall be held to be of a judicial and not of an administrative character.

Suspension of
clerk or bailiff
by Judge.

(2) The Judge may for cause suspend any clerk or bailiff appointed by the Lieutenant-Governor, and in case of such suspension by him, he shall forthwith report the same and the cause thereof to the Provincial Secretary; and in case a vacancy shall occur in the office of clerk or bailiff within his county, the Judge shall forthwith notify the Provincial Secretary thereof. 43 V. c. 8, s. 34.

Inspector may
grant leave of
absence to
clerks or
bailiffs.

32. Leave of absence may be granted by the inspector of Division Courts to any clerk or bailiff for a period not exceeding two months. In the event of leave of absence being so granted to any clerk, he may from time to time, with the approval of the inspector, appoint a deputy to act for him with all the powers and privileges, and subject to like duties. He may remove such deputy at his pleasure, and the clerk and his sureties shall be jointly and severally responsible for all the acts and omissions of the deputy. 45 V. c. 7, s. 3.

When clerk
may appoint
deputy.

33. The clerk may (with the approval of the Judge), from time to time, when prevented from acting, by illness or other unavoidable accident, appoint a deputy to act for him, with all the powers and privileges and subject to like duties, and may remove such deputy at his pleasure, and the clerk and his sureties shall be jointly and severally responsible for all the acts and omissions of the deputy. R. S. O. 1877, c. 47, s. 35.

Appointment
of deputy by
bailiff.

34. Where a bailiff is temporarily unable to perform the duties of his office from illness, leave of absence or other temporary disability, he may from time to time, with the approval of the inspector of Division Courts, appoint a deputy to act for him, with all the powers and privileges and subject to like duties, and may remove such deputy at his pleasure, and the bailiff and his sureties shall be jointly and severally responsible for all the acts and omissions of the deputy. No such appointment shall have force for a longer period than two months. 45 V. c. 7, s. 4.

Securities.

Clerks and
bailiffs to give
security.
Rev. Stat.
c. 15.

35. Subject to the provisions of section 24 of *The Act Respecting Public Officers*, every clerk and bailiff of a Division Court shall give security, by a covenant according to the form of the Schedule to this Act, or in words to the same effect, with so many sureties, being freeholders and residents within the

county, and in such sums as the County Judge directs, and, under his hand, approves and declares sufficient. R. S. O. 1877, c. 47, s. 27.

36. Before a clerk or bailiff enters upon the duties of his office, the covenant of himself and sureties, approved as aforesaid, shall be filed in the office of the Clerk of the Peace in the county in which the Division Court is situate; and for filing and granting a certificate thereof, the Clerk of the Peace may demand from the clerk or bailiff the sum of \$1. R. S. O. 1877, c. 47, s. 28.

Before clerk or bailiff enters on his duties, covenant to be filed with Clerk of the Peace.

37. The covenant shall be available to and may be sued upon in any Court of competent jurisdiction by any person suffering damages by the default, breach of duty or misconduct of such clerk or bailiff. R. S. O. 1877, c. 47, s. 29.

Covenant to be available to suitors, etc.

38. A copy of the covenant, certified by the Clerk of the Peace, shall be received in all Courts as sufficient evidence of the due execution, and of the contents thereof, without further proof. R. S. O. 1877, c. 47, s. 30.

Certified copy of covenant to be received as evidence.

39.—(1) In an action, or proceeding against any person as the surety of a clerk or bailiff, the entries in the books required by law to be kept or which were so kept by such clerk or bailiff shall be *prima facie* evidence against the surety.

Entries of clerk or bailiff evidence against surety.

(2) For the purposes of this section the words "clerk or bailiff" shall be held to include a person who having been a clerk or bailiff has ceased to be such clerk or bailiff. 48 V. c. 14, s. 9.

40. If a surety in such covenant dies, becomes resident out of Ontario, or insolvent, the County Judge shall notify the clerk or bailiff for whom such person became surety, of such death, departure or insolvency, and the clerk or bailiff shall within one month after being so notified, give anew the like security, and in the same manner as hereinbefore provided, or forfeit his office of clerk or bailiff. R. S. O. 1877, c. 47, s. 31.

If surety dies, a new surety to be furnished.

41. Any person who has become surety for any clerk or bailiff, and who is no longer disposed to continue such responsibility, may give notice thereof to the clerk or bailiff, and to the Judge of the County Court, and in such case the clerk or bailiff shall, under penalty of forfeiture of his office, furnish the security of a new surety in lieu of the surety so giving notice, and shall have the necessary bond or covenant approved by the Judge and completed within one month after such notice; and all accruing responsibility on the part of the person giving such notice shall cease upon and after the perfecting and approval by the Judge of the new security. R. S. O. 1877, c. 47, s. 32.

Sureties of clerks and bailiffs may discontinue suretyship.

Sects 15-20 of Rev. Stat. c. 15 to apply to securities given by clerks and bailiffs.

42. Sections 15 to 20, both inclusive, of *The Act respecting Public Officers*, shall, with the substitution of "The Judge of the Court" for "The Lieutenant-Governor," apply to securities given by a clerk or bailiff of a Division Court. R. S. O. 1877, c. 47, s. 33. *See also Cap. 15, ss. 24-27.*

Liability of former sureties.

43. Nothing hereinbefore contained shall discharge or exonerate any of the parties to such former covenant from their liability on account of any matter done or omitted before the renewal of the covenant as aforesaid. R. S. O. 1877, c. 47, s. 34.

Clerk's Duties.

Clerk to issue summonses and furnish copies, etc.

44. The clerk shall issue all summonses, which summonses shall be by him filled up and shall be without blanks either in date or otherwise at the time of delivery for service; he shall also furnish copies of the same with the notice thereon, according to the form prescribed by the general rules or orders from time to time in force relating to Division Courts. R. S. O. 1877, c. 47, s. 36.

Clerk to keep a record of writs and judgments.

45. The clerk shall cause a note of all summonses, all notices filed by any party to the action, orders, judgments, executions and returns thereto, to be from time to time fairly entered in a book to be kept in his office; and shall sign his name on every page of the book; and the signed entries, or a copy thereof certified as a true copy by the clerk, shall be admitted in all Courts and places as evidence of such entries, and of the proceedings referred to thereby, without further proof. R. S. O. 1877, c. 47, s. 37; 49 V. c. 15, s. 5.

Clerks to issue executions, tax costs and keep account of fines, etc.

46. The clerk shall also issue all warrants and writs of execution filled up and without blanks; he shall tax costs, subject to the revision of the Judge, register all orders and judgments of the court, and keep an account of all fines payable or paid into court, and of all suitors' moneys paid into and out of court, and shall enter an account of all such fines and moneys in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same, and shall at all times be accessible to the Judge and Inspector. R. S. O. 1877, c. 47, s. 38.

Clerks to deliver to County Crown Attorney a verified account of fines.

47. The clerk of every Division Court shall, from time to time, as often as required so to do by the County Crown Attorney of his county, and at least once in every three months, deliver to him, verified by the affidavit of the clerk sworn before the Judge or a Justice of the Peace of the county, a full account in writing of all fines levied by the court, accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may make out of such fine, in pursuance of the power hereinafter given. R. S. O. 1877, c. 47, s. 40.

48. The clerk of every Division Court, when required by the Judge, shall, from time to time, furnish him with a full account in writing verified by the oath of the clerk sworn before the Judge or a Justice of the Peace, of the moneys received into and paid out of the court by any suitors or other parties under any orders, judgments or process of the court, and of the balance in court belonging to any such suitors or parties. Clerks to furnish Judge with a verified account of moneys paid in and out of Court.
R. S. O. 1877, c. 47, s. 41.

49.—(1) The clerk of every Division Court shall, annually in the month of January, make out a correct list of all sums of money belonging to suitors in the court, which have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the parties for whom or on whose account the same were so paid. Clerk annually to make list of suitors' money in Court.

(2) A copy of such list shall be put up and remain at all times in the clerk's office and, during court hours, in some conspicuous part of the court house, or place where the court is held. Copy of list to be put up in court room and in Clerk's office.
R. S. O. 1877, c. 47, s. 43.

[As to return of fees by Division Court Clerk, see cap. 15, ss. 28, 29.]

Disposal of Books and Papers when Clerk changed.

50.—(1) All accounts, moneys, books, papers, and other matters in the possession of the clerk by virtue of or appertaining to his office, shall, upon his resignation, removal or death, immediately become the property of the County Crown Attorney of the county in which the division is situate, who shall hold the same for the benefit of the public until the appointment of another clerk, to whom he shall deliver over the same, but not until such clerk and his sureties have executed and filed the covenant hereinbefore mentioned. Upon resignation, removal or death of Clerk, County Crown Attorney to become possessed of papers.
R. S. O. 1877, c. 47, s. 44.

(2) No person shall wrongfully hold or get possession of such accounts, moneys, books, papers and matters aforesaid, or any of them; and upon the declaration in writing of the Judge presiding over the Division Court for the time being, that a person has obtained or holds such wrongful possession thereof, and upon the order of a Judge of the High Court, founded thereon, such person shall be arrested by the sheriff of any county in which he is found, and shall by such sheriff be committed to the common gaol of his county, there to remain without bail until the High Court, or a Judge thereof, is satisfied that such person has not and never had nor held any such matters or moneys, or that he has fully accounted for or delivered up the same to the County Crown Attorney, or until he be otherwise discharged by due course of law. Punishment of person wrongfully holding moneys, books or papers.
C. S. U. C. c. 19, s. 48.

Duties of Bailiffs.

Bailiffs to serve writs.

51. The bailiffs shall serve and execute all summonses, orders, warrants, and writs delivered to them by the clerk for service, whether bailiffs of the court out of which the same issued or not, and shall so soon as served return the same to the clerk of the court of which they are respectively bailiffs; but, subject to the provisions of section 82, they shall not be required to travel beyond the limits of their division, or be allowed to charge mileage for any distance travelled beyond the limits of the county in which the court of which they are respectively bailiffs is situated. R. S. O. 1877, c. 47, s. 45.

Bailiff to exercise duty of constable during holding of Court.

52. Every bailiff shall exercise the authority of a constable during the actual holding of the court of which he is a bailiff, with full power to prevent breaches of the peace, riots or disturbances within the court-room or building in which the court is held, or in the public streets, squares, or other places within the hearing of the court, and may, with or without warrant, arrest all parties offending against the meaning of this clause, and forthwith bring the offenders before the nearest Justice of the Peace, or any other judicial officer having power to investigate the matter or to adjudicate thereupon. R. S. O. 1877, c. 47, s. 46.

Fees of Clerks and Bailiffs, etc.

Clerks and bailiffs to be paid by fees.

53.—(1) The clerks and bailiffs shall be paid by fees, as provided and allowed by the general rules or orders applicable to Division Courts, heretofore in force or hereafter to be made by the Board of County Judges, and approved under the provisions of section 297 of this Act.

Fees of appraisers.

(2) Until otherwise provided by the general rules or orders, the fees to be taken and received by appraisers shall be as follows:—

To each appraiser, during the time actually employed in appraising goods
(to be paid in first instance by the plaintiff and allowed in costs of the cause).....Fifty cents per day.

R. S. O. 1877, c. 47, s. 47.

Table of fees to be hung up in clerk's office.

(3) A table of the fees shall be hung up in some conspicuous place in the offices of the several clerks. R. S. O. 1877, c. 47, s. 48.

Fees to be paid by plaintiff or defendant in first instance.

54. The fees upon every proceeding shall, on or before such proceeding, be paid in the first instance by the plaintiff, or other party at whose instance the proceeding takes place. R. S. O. 1877, c. 47, s. 49.

How enforced.

55. If the fees are not paid in the first instance by the plaintiff or party on whose behalf such proceeding is to be had, the payment thereof may, by order of the Judge, be enforced

by execution in like manner as a judgment of the court, by such ways and means as any debt or damages ordered to be paid by the court can be recovered. R. S. O. 1877, c. 47, s. 50.

56. At the time of the issue of the execution, the bailiff's fees thereon shall be paid to the clerk, and shall by him be paid over to the bailiff, upon the return of the execution, and not before, but if the bailiff does not become entitled to any part, or becomes entitled to a part only, of such fees, the whole or surplus shall on demand be by the clerk repaid to the plaintiff or party from whom the fees were received. R. S. O. 1877, c. 47, s. 51.

Bailiff's fees to be paid to clerk before execution issues.

57. If the bailiff neglects to return any process or execution within the time required by law, he shall for each such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the clerk, who shall keep a special account thereof, and account for and pay over the same to the County Crown Attorney, to be paid by him over to the Provincial Treasurer, to form part of the Consolidated Revenue Fund. R. S. O. 1877, c. 47, s. 52.

Bailiff to forfeit fees if he neglects to return writ.

58. No clerk or bailiff shall directly or indirectly take or receive any commission, charge, expenses, fee, or reward for or in connection with the collection of any debt or claim which has been or may or can be sued in the court for which he is so clerk or bailiff, except such fees as are provided by any tariff of fees under this Act. 43 V. c. 8., s. 37.

Clerk or bailiff not to collect on commission.

59.—(1) Every Division Court Clerk shall be entitled to retain to his own use in each year all the fees and emoluments earned by him in that year up to \$1,000 ;

Fees to be retained by Clerks for their own use.

(2) Of the further fees and emoluments earned by every Division Court Clerk in each year in excess of \$1,000, and not exceeding \$1,500, he shall be entitled to retain to his own use 90 per cent., and no more ;

(3) Of the further fees and emoluments earned by every Division Court Clerk in each year in excess of \$1,500, and not exceeding \$2,000, he shall be entitled to retain to his own use 80 per cent., and no more ;

(4) Of the further fees and emoluments earned by every Division Court Clerk in each year in excess of \$2,000, and not exceeding \$2,500, he shall be entitled to retain to his own use 70 per cent., and no more ;

(5) Of the further fees and emoluments earned by every Division Court Clerk in each year in excess of \$2,500, and not exceeding \$3,000, he shall be entitled to retain to his own use 60 per cent., and no more ;

(6) Of the further fees and emoluments earned by every Division Court Clerk in each year in excess of \$3,000 he shall be entitled to retain to his own use 50 per cent., and no more 43 V. c. 8, s. 39.

Clerk to pay
excess to
Treasurer of
Province.

60. On the 15th day of January in every year every Division Court Clerk shall transmit to the Treasurer of the Province a duplicate of the return required by section 68 of this Act, and shall also pay to such Treasurer for the use of the Province such proportion of the fees and emoluments earned by him during the preceding year, as under this Act he is not entitled to retain to his own use. 43 V. c. 8, s. 40.

INSPECTOR.

Appointment
of inspector.

61. The Lieutenant-Governor may, from time to time, appoint an inspector of Division Courts, who shall hold office during pleasure, and whose duty shall be :

Inspection of
offices.

1. To make a personal inspection of every Division Court and of the books and court papers belonging thereto ;

Books, etc.

2. To see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper mannner, at proper times, and in a proper form and order, and that the court papers and documents are properly classified and preserved ;

Officers'
duties.

3. To ascertain that the duties of the officers of the Division Courts are duly and efficiently performed, and that the office is at all times duly attended to by the clerk ;

Lawful fees.

4. To see that lawful fees only are taxed or allowed as costs ;

Security by
clerks and
bailiffs.

5. When directed so to do by the Lieutenant-Governor, to ascertain that proper security has been given by any clerk or bailiff, and that the sureties continue sufficient ;

Report to
the Lieuten-
ant-Governor.

6. To report upon all such matters as expeditiously as may be to the Lieutenant-Governor for his information and decision. 43 V. c. 8, s. 23.

Power of in-
specter in
making in-
quiry into
conduct of
officers.

62. When the inspector considers it expedient to institute an inquiry into the conduct of a Division Court clerk or bailiff in relation to his or their official duties or acts, it shall be lawful for the inspector to require the clerk or bailiff, or other person or persons, to give evidence on oath, and for this purpose the inspector shall have the same power to summon such officers, or other person or persons, to attend as witnesses, to enforce their attendance and to compel them to produce books and documents, and to give evidence as any Court has in civil cases. 43 V. c. 8, s. 24 ; 48 V. c. 14, s. 13.

Books, etc., to
be produced
for inspection.

63. The Division Court clerks and bailiffs shall, as often as required by the inspector, produce all books and documents required to be kept by them, or that may hereafter be required to be kept by them, at the clerk's office, for examination and inspection : every clerk or bailiff shall report to the inspector such matters relating to any cause or proceeding as the inspector shall require. 43 V. c. 8, s. 26.

64. It shall be the duty of every Division Court clerk or bailiff, within five days after his appointment to office, to inform the inspector of his appointment, his full name and post office address, the names of his sureties, their respective callings or professions, places of residence, and post office address. 43 V. c. 8, s. 27.

Officers to inform inspector of their appointment, etc.

65. When a clerk or bailiff has given new sureties, as required by this Act, he shall immediately inform the inspector of such change, giving the names of the sureties, their respective callings or professions, places of residence, and post office address. 43 V. c. 8, s. 28.

Inspector to be informed of new sureties.

66. Every Division Court clerk and bailiff shall have and keep in his possession or custody the certificate of the Clerk of the Peace named in section 36 of this Act, and shall produce the same for the information of the inspector when required so to do. 43 V. c. 8, s. 29.

Officers to produce certificate of filing covenant, etc.

67. Every clerk shall, on or before the 15th day of January in each year, make a return of the business of his office for the year ending the 31st day of December preceding, in such form and manner as the Lieutenant-Governor shall direct. 43 V. c. 8, s. 30.

Returns.

68. Every clerk and bailiff shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, and shall on the 15th day of January, in every year, make up to and including the 31st day of December of the previous year, a return to the inspector, under oath, shewing the aggregate amount of fees, charges and emoluments so received by him and which he has become entitled to receive, and has not received, during the year. 43 V. c. 8, s. 31.

Clerks to make returns to inspector.

JURISDICTION.

69. The Division Courts shall not have jurisdiction in any of the following cases:

Cases in which Court has no jurisdiction.

1. Actions for any gambling debt;
2. Actions for spirituous or malt liquors drunk in a tavern or alehouse;
3. Actions on notes of hand given wholly or partly in consideration of a gambling debt or for such liquors;
4. Actions for the recovery of land or actions in which the right or title to any corporeal or incorporeal hereditaments, or any toll, custom or franchise comes in question;
5. Actions in which the validity of any devise, bequest or limitation under any will or settlement is disputed;

6. Actions for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage;

7. Actions against a Justice of the Peace for anything done by him in the execution of his office, if he objects thereto. R. S. O. 1877, c. 47, s. 53.

Cases in which
the Court has
jurisdiction.

70.—(1) The Division Courts shall have jurisdiction in the following cases :

- (a) All personal actions where the amount claimed does not exceed \$60. R. S. O. 1877, c. 47, s. 54 (1); 43 V. c. 8, s. 3.
- (b) All claims and demands of debt, account or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$100. 41 V. c. 8, s. 6.
- (c) All claims for the recovery of a debt or money demand, the amount or balance of which does not exceed \$200 and the amount or original amount of the claim is ascertained by the signature of the defendant or of the person whom, as executor or administrator, the defendant represents. 43 V. c. 8, s. 2, *part*.

and except in cases in which a jury is legally demanded by a party as hereinafter provided, the Judge shall hear and determine in a summary way all questions of law and fact and may make such orders or judgments as appear to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R. S. O. 1877, c. 47, s. 54; *part*.

Absconding
debtors.

(2) In the class of cases provided for by paragraph (c) of the preceding sub-section, the increased jurisdiction thereby conferred shall apply to claims and proceedings against absconding debtors under section 249, and subsequent sections of this Act; and in such cases the attachment may issue and proceedings may be had on a claim of not less than \$4 and not more than \$200. 43 V. c. 8, s. 4.

Combining
causes of
action.

(3) Claims combining :

- (a) A cause or causes of action in respect of which the jurisdiction of the Division Courts, is by the foregoing sub-sections of this section, limited to \$60, which causes of action are hereinafter designated as class (a) and
- (b) A cause or causes of action in respect of which the jurisdiction of the said Courts is by the said sub-sections limited to \$100, which causes of action are hereinafter designated as class (b)
- (c) A cause or causes of action in respect of which the jurisdiction of the said Courts is by the said sub-sections limited to \$200, which causes of action are hereinafter designated as class (c)

may be tried and disposed of in one action, and the said Courts shall have jurisdiction so to try the same; provided that the whole amount claimed in any such action in respect of class (a), shall not exceed \$60; and that the whole amount claimed in any action in respect of classes (a) and (b) combined, or in respect of class (b) where no claim is made in respect of class (a), shall not exceed \$100, and that the whole amount claimed in respect of classes (a) and (c) or (b) and (c) combined, shall not exceed \$200, and that in respect of classes (b) and (c) combined, the whole amount claimed in respect of class (b) shall not exceed \$100.

(4) The finding of the Court upon the claims when so joined as aforesaid shall be separate. 49 V. c. 15, s. 6.

71. Upon any contract for the payment of a sum certain in labour or in any kind of goods or commodities or in any other manner than in money, the Judge, after the day has passed on which the goods or commodities ought to have been delivered or the labour or other thing performed, may give judgment for the amount in money as if the contract had been originally so expressed. R. S. O. 1877, c. 47, s. 55.

Judge may order payment in money, although contract not for payment in money.

72. The Division Courts shall also have jurisdiction in all actions of replevin, where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$60, as provided in *The Replevin Act*. R. S. O. 1877, c. 47, s. 56; 43 V. c. 8, s. 3.

Jurisdiction in replevin.
Rev. Stat. c. 55.

73. Every Division Court shall as regards all causes of action within its jurisdiction for the time being, have power to grant and shall grant in any proceeding before such court such relief, redress, or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties, forfeitures and agreements for liquidated damages, and shall in every such proceeding give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provision next hereinafter contained), in as full and ample a manner as might and ought to be done in the like case by the High Court. 44 V. c. 5, s. 77; 49 V. c. 16, s. 38.

Powers of Courts.

74. Where in any proceeding before a Division Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the court, such defence or counter-claim shall not affect the competence or the duty of the court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the court has jurisdiction to administer shall be given to the defendant upon any such counter-claim. 44 V. c. 5, s. 78.

Duty of Court where defence or counter-claim involves matter beyond jurisdiction.

[As to transfer of cases from the Division Court to the High Court. See chap. 44, s. 158.]

No privilege
to exempt
from jurisdic-
tion of Court.

75. No privilege shall be allowed to any person to exempt him from suing and being sued in a Division Court; and any executor or administrator may sue or be sued therein; and the judgment and execution shall be such as in like cases would be given or issued in the High Court. R. S. O. 1877, c. 47, s. 57.

Minors may
sue for wages.

76. A minor may sue in a Division Court for any sum not exceeding \$100 due to him for wages, in the same manner as if he were of full age. R. S. O. 1877, c. 47, s. 58.

Causes of ac-
tion not to be
divided.

77. A cause of action shall not be divided into two or more actions for the purpose of bringing the same within the jurisdiction of a Division Court, and no greater sum than \$100 shall be recovered in any action for the balance of an unsettled account, nor shall any action for any such balance be sustained where the unsettled account in the whole exceeds \$400. R. S. O. 1877, c. 47, s. 59.

Judgment to
be full dis-
charge.

78. A judgment of a Division Court upon an action brought for the balance of an account shall be a full discharge of all demands in respect of the account for the balance of which such action was brought, and the entry of judgment shall be made accordingly. R. S. O. 1877, c. 47, s. 60.

Causes may be
removed by
certiorari in
certain cases.

79. In case the debt or damages claimed in an action brought in a Division Court amounts to \$40 and upwards, and in case it appears to any of the Judges of the High Court that the case is a fit one to be tried in the High Court, and in case a Judge thereof grants leave for that purpose, the action may by writ of *certiorari* be removed from the Division Court into the High Court upon such terms as to payment of costs or other terms as the Judge making the order thinks fit. R. S. O. 1877, c. 47, s. 61.

PROCESS AND PROCEDURE.

Court where
action may be
tried to have
full power.

80. When it is by this Act provided that a claim may be entered, or an action brought, or that any person or persons may be sued in any Division Court or that an action may be transferred to any other court, such court shall have jurisdiction in the premises, and all proceedings may be had and taken both before and after judgment in or relating to such claim or cause as may now be had, and taken in or relating to any claim or cause which has been lawfully entered in the court holden for the division in which the cause of action arose, or in which the defendant or any one of several defendants resided or carried on business at the time the action was brought. 43 V. c. 8, s. 12.

Division in which actions to be entered.

In what
Court actions
may be enter-
ed and tried.

81. Any action cognizable in a Division Court may be entered and tried in the court holden for the division in which the cause of action arose or in which the defendant or any one of

several defendants resides or carries on business at the time the action is brought, notwithstanding that the defendant at such time resides in a county or division different from the one in which the cause of action arose. R. S. O. 1877, c. 47, s. 62.

82.—(1) Such action may be entered and tried and determined in the court the place of sitting whereof is the nearest to the residence of the defendant, and the action may be entered, tried and determined irrespective of the place where the cause of action arose, and notwithstanding that the defendant at the time resides in a county or division other than the county or division in which the Division Court is situate, and the action entered.

Actions may be brought and tried in the Court nearest to the defendant's residence.

(2) It shall be sufficient if the summons in such case be served by a bailiff of the court out of which it issues, in the manner provided in section 96 of this Act; and upon judgment recovered in any such action a writ of *fiery facias* against the goods and chattels of the defendant, and all other writs, process and proceedings to enforce the payment of the judgment, may be issued to the bailiff of the court, and be executed and enforced by him in the county in which the defendant resides, as well as in the county in which the judgment was recovered. R. S. O. 1877, c. 47, s. 63.

Service of summons in such cases.

Execution.

83. In case a person desires to bring an action in a division other than as in the next preceding two sections mentioned, a County Judge may by special order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of several defendants resides, whether such defendant resides in the county of the Judge granting the order or in an adjoining county. R. S. O. 1877, c. 47, s. 64.

When actions may be brought in other than the regular Divisions.

84. In every case where the defendant is a corporation not having its head office in the Province and the cause of action arose partly in one Division and partly in another, the plaintiff may bring his action in either Division. 50 V. c. 8, Sched.

Where defendant is a corporation the head office of which is not in Province.

85. Where the debt or money payable exceeds \$100, and is by the contract of the parties made payable at a place out of the Province of Ontario, the action may be brought thereon in any Division Court, subject, however, to the place of trial being changed upon the application of one or more of the defendants as provided by the next succeeding section. 43 V. c. 8, s. 9.

Where money made payable out of the Province.

86.—(1) Where the debt or money payable exceeds \$100, and is made payable by the contract of the parties at any place named therein, the action may be brought thereon in the court holden for the division in which the place of payment is situate,

Place of trial.

subject, however, to the place of trial being changed to another division in which the court holden therein has jurisdiction in the particular case.

(2) To procure such change an order to that effect is to be obtained by the defendant from the Judge of the county in which the action is brought.

(3) The application for the order is to be made within eight days from the day on which the defendant who makes the application was served with the summons, where the service is required to be ten days before the return; or within twelve days after the day of such service, where the service is required to be fifteen days or more before the return.

(4) The application is to be on an affidavit that the applicant intends to defend the action, that he has a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, and that the witnesses for the defence, or some of them, reside within the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay; the date of the then next two sittings of the court to which he seeks to have the cause transferred is also to be shewn.

(5) The affidavit must be made by a defendant, or his solicitor or agent in case satisfactory reasons are given why the affidavit is not made by a defendant.

(6) The order shall direct at what sittings of the court the action shall be tried, subject to all rights of postponement as in other cases, and shall be attached to the summons and other proceedings in the action by the clerk, who shall forthwith transmit the same to the clerk of the court in which the action is by such order directed to be tried, and shall enter a minute thereof in his procedure book.

(7) Upon receipt of the order and other papers by the clerk of such last mentioned court, he shall enter the action and proceedings in his procedure book.

(8) All the papers and proceedings in the cause thereafter, shall be entitled and had and carried on as though the action had originally been entered in the said last mentioned court.

(9) It shall be the duty of the defendant obtaining the order forthwith to serve, or cause to be served, a copy of the same upon the plaintiff or his agent in the same manner as summonses are required to be served under this Act. 43 V. c. 8. s. 8.

87. If by mistake or inadvertence an action shall be entered in the wrong Division Court which might properly have been entered in some other Division Court of the same or any other county, the cause shall not abate as for want of jurisdiction,

When action entered in wrong court by mistake.

but on such terms as the Judge shall order, all the papers and proceedings in the cause may be transferred to any Division Court having jurisdiction in the premises, and shall become proceedings thereof as though the cause were at first properly entered therein, and the same shall be continued and carried on to the conclusion thereof as though the action had originally been entered in the said last mentioned court. 43 V. c. 8, s. 11.

88. Every clerk or bailiff may sue and be sued for any debt due to or by him, as the case may be, separately or jointly with another person in the court of any next adjoining division in the same county, in the same manner, to all intents and purposes, as if the cause of action had arisen within such next adjoining division, or the defendant was resident therein, and no clerk or bailiff shall bring any action in the Division Court of which he is clerk or bailiff. R. S. O. 1877, c. 47, s. 65.

Clerks and bailiffs may sue and be sued in adjoining divisions.

89. Notwithstanding any thing in this Act contained, a clerk or bailiff of a Division Court may be sued in the court of an adjoining county, the place of sitting whereof is nearest to the residence of the defendant without the county in which he holds his office as clerk or bailiff; and upon a transcript of a judgment which may be recovered against any clerk or bailiff in such action being sent to and received by the clerk of the court of any division adjoining the division for which the defendant was or is clerk or bailiff in the county in which the last named division is situate, with a certificate of the amount due on such judgment, as provided by section 217 of this Act, such proceedings for enforcing and collecting the judgment by way of execution and otherwise may be had and taken in the Division Court to which the transcript has been so sent by the officers thereof as may be had or taken for the like purpose upon a judgment regularly recovered in any Division Court. 43 V. c. 8, s. 15.

Place of trial in actions against clerk or bailiff.

Enforcing judgment.

90. Any action, by or against a Judge or Junior Judge of a County Court, which is within the competence of a Division Court, may be brought in a Division Court of any county adjoining that in which the Judge or Junior Judge resides: and any action by or against a Stipendiary Magistrate, if the same is within the jurisdiction of any Division Court of his district, may be brought in any Division Court of any adjoining county or district. R. S. O. 1877, c. 47, s. 66.

Action against County Judge or Stipendiary Magistrate.

91. Notwithstanding anything in this Act contained, any action within the jurisdiction of the Division Court may be entered, tried and finally disposed of by the consent of all parties in any Division Court. 43 V. c. 8, s. 10.

Trial may by consent be in any division.

92. The clerk of any Division Court shall, when required, forward all summonses to the clerk of any other Division Court for service, and the clerk of any Division Court shall re-

Clerk to forward summonses for service in other divisions.

ceive any summonses sent to him by any other Division Court clerk for service, and he shall hand the same to the bailiff for service, and when returned shall receive the same from the bailiff and return them to the clerk from whom he received them, and every clerk shall enter all such proceedings in a book to be by him kept for that purpose. R. S. O. 1877, c. 47, s. 67.

Notices to be in writing.

93. In all cases not already provided for, where, in any action or proceeding in a Division Court, it is necessary for any party thereto to give notice to any other party thereto or to the clerk of the court such notice shall be in writing. 48 V. c. 14, s. 8.

Entry of Claim, Service, etc.

Plaintiff to enter copy of his claim with Clerk.

94.—(1) The plaintiff shall enter with the clerk a copy (and, if necessary, copies) of his account, claim or demand in writing in detail (and in cases of tort, particulars of his demand) and each copy shall be numbered according to the order in which the copies are entered, and thereupon a summons shall be issued, bearing the number of the account, claim or demand on the margin thereof, and corresponding in substance with such form as may be prescribed by the General Rules or Orders relating to Division Courts from time to time in force, according to the nature of the account, claim or demand, and on the trial of the cause no evidence shall be given by the plaintiff of any cause of action except such as is contained in the account, claim or demand so entered. R. S. O. 1877, c. 47, s. 68.

(2) In any action brought to recover a sum of money due on a promissory note, the note shall be filed with the clerk before judgment, unless otherwise ordered, or unless the loss of the note be shewn, or that it cannot for some other satisfactory reason be produced. 49 V. c. 15, s. 7.

Plaintiff to furnish particulars of claim to the Clerk for service.

95. The plaintiff shall furnish the clerk with the particulars of his claim or demand, and the clerk shall annex the plaintiff's particulars to the summons, and he shall furnish copies thereof, to the proper person to serve the same. R. S. O. 1877, c. 47, s. 69.

Service of summons to be ten days.

96. The summons, with a copy of the account or of the particulars of the claim or demand attached, shall be served ten days at least before the return day thereof. R. S. O. 1877, c. 47, s. 70.

When service to be 15 days and when 20 days.

97. In case none of the defendants reside in the county in which the action is brought, but one of them resides in an adjoining county, the summons shall be served fifteen days, and in case none of the defendants reside in the county within which the action is brought, or in an adjoining county, the summons shall be served twenty days at least before the return day thereof. R. S. O. 1877, c. 47, s. 71.

98. There shall be indorsed upon every summons a notice informing the defendant that in any case in which an order may be made changing the place of trial, application must be made to the Judge within eight days after the day of service thereof (where the service is required to be ten days before the return), or within twelve days after the day of such service (where the service is required to be fifteen days or more before the return). 43 V. c. 8, s. 13.

Indorsement
upon sum-
mons.

99. In case the amount of the account, claim or demand exceeds \$8, the service shall be personal on the defendant, and in case the amount does not exceed \$8, the service may be on the defendant, his wife, or servant, or some grown person being an inmate of the defendant's dwelling-house, or usual place of abode, trading or dealing. R. S. O. 1877, c. 47, s. 72.

When service
to be personal
or otherwise.

General Provisions.

100. Where it is made to appear to the Judge upon affidavit that reasonable efforts have been made to effect personal service of the summons upon the defendant, primary debtor or garnishee, and either that the summons has come to the knowledge of the defendant, primary debtor or garnishee, or that he wilfully evades service of the same, or has absconded, the Judge may, by order, grant leave to the plaintiff to serve the writ in such manner, at such place, or upon such person for the defendant, primary debtor or garnishee, as to him may seem proper, and may grant leave to the plaintiff to proceed as if personal service had been effected, subject to such conditions as the Judge may impose. 43 V. c. 8, s. 62.

Substitutional
service.

101.—(1) Every summons or process issued out of a Division Court against a corporation not having its chief place of business within the Province, and all subsequent papers and proceedings in the action, or proceeding in which the summons or process has been issued, may be served on the agent of the corporation whose office or place of business as such agent is either within the division in which the summons or process issued, or is nearest thereto.

Service of pro-
cess, etc., on
corporations.

(2) For the purposes of this section the word "agent" shall be held to include,

(a) In the case of a railway company a station-master having charge of a station belonging to the railway company;

(b) In the case of a telegraph company, a person having charge of a telegraph office belonging to the telegraph company, and

(c) In the case of an express company, a person having charge of an express office belonging to the express company. 48 V. c. 14, s. 11.

Postages.

102. The postages of papers required to be served out of the Division, and sent by mail for service, shall be costs in the cause. R. S. O. 1877, c. 47, s. 73.

How process, etc., may be executed at a distance.

103. Where there is no bailiff of the court in which the action is brought, or when the bailiff has been suspended by order of the Judge, or where any summons, execution, subpoena, process or other document, is required to be served or executed elsewhere than in the division in which the action is brought, it may, in the election of the party, be directed to be served and executed by the bailiff of the division in or near to which it is required to be executed, or by such other bailiff or person as the Judge, or clerk issuing the same, orders, and may, for that purpose, be transmitted by post, or otherwise, direct to such bailiff or person, without being sent to or through the clerk. R. S. O. 1877, c. 47, s. 74; 49 V. c. 15, s. 8.

Duties of bailiff and liability of sureties.

104. In cases mentioned in the last preceding section it shall be the duty of the bailiff to serve and execute all summonses, executions, subpoenas, process and other documents, and make return thereof with reasonable diligence, and to pay over, on demand, all moneys by him levied or received thereon; and for neglect or default therein, in addition to any other remedy against the bailiff, he and his sureties shall be liable, on their covenant to the parties aggrieved, as if the summonses, executions, subpoenas, process and documents had issued from or related to some action in the court of which he is bailiff. R. S. O. 1877, c. 47, s. 75.

Clerk to prepare affidavits of service, etc.

105. The clerk shall prepare affidavits of service of all summonses issued out of his court, or sent to him for service stating how the same were served, the day of service, and the distance the bailiff necessarily travelled to effect service, and the affidavits shall be annexed to or indorsed on the summonses respectively; but the Judge may require the bailiff to be sworn in his presence, and to answer such questions as may be put to him touching any service or mileage. R. S. O. 1877, c. 47, s. 76.

Partners.

One of several partners may be sued in certain cases.

106. In case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, but residing in different divisions, or one or more of whom cannot be found, one or more of such persons may be served with process, and judgment may be obtained and execution issued against the person or persons served, notwithstanding others jointly liable have not been served or sued, reserving always to the person or persons against whom execution issues his or their right to demand contribution from any other person jointly liable with him. R. S. O. 1877, c. 47, s. 77.

107. Where judgment has been obtained against such partner, and the Judge certifies that the demand proved was strictly a partnership transaction, the bailiff, in order to satisfy the judgment and costs and charges thereon, may seize and sell the property of the firm, as well as that of the defendants who have been served. R. S. O. c. 1877, c. 47, s. 78.

Bailiff may seize property of firm on certificate of Judge.

Adding Parties.

108. The following provisions shall apply to and in respect of any action brought in a Division Court;

Adding defendants.

1. The Judge may, at any time after action commenced, upon the application of either party, and upon such terms as may appear to him to be just, order that the name of any party who ought to have been joined in the action as a defendant shall be added as a party defendant.

2. If it shall appear to the judge, either before or at the trial of an action, that any party ought to be added as a party defendant in order that the Court may settle all rights and questions involved in the action, the Judge may order such person to be added accordingly.

3. Every person whose name is so added as a defendant shall be served with a copy of the writ of summons, the original summons being first properly amended, and the proceedings against such added defendant, shall be deemed to have been commenced from the date of the order making him a party defendant; but if the application to add a defendant be made at the trial, the Judge may make the order in a summary manner, and may dispense with the service of a copy of the summons upon such defendant, if such defendant or his solicitor consent thereto, upon such terms as to costs or an adjournment of the trial, as to the Judge shall appear just.

Service on parties added.

4. Any two or more persons claiming, or being liable as co-partners may sue, or be sued in the name of the respective firms, if any; where partners are sued in the name of their firm, the summons may be served on one or more of the partners and subject to the provisions in the next two sub-sections contained, such service shall be deemed good service upon the firm; but the affidavit of the service of the summons shall state the name of the partner served. Any party may, at any time before or after judgment, apply to the Judge for an order directing a statement to be furnished of the names of all the persons who are co-partners in any firm which is a party to the action by the firm named.

Service on partners.

5. Where a judgment is against partners in the name of the firm, execution may issue in the manner following:—

Execution against partners.

(a) Against any goods of the partners.

(b) Against the goods of any person who has admitted in the notice of dispute or defence filed that he is or who has been adjudged a partner.

(c) Against any person who has been served as a partner with a copy of the summons and who has failed to appear.

Adding
partners as
defendants.

6. Upon the trial of an action against a firm, if the plaintiff is desirous of obtaining a judgment against the individual partners, other than the one served with a copy of the summons, and in addition to his judgment against the firm, he may procure the addition of the remaining partners as defendants under sub-sections 1 and 3 of this section, and thereafter proceed to judgment against them in the action as in other cases. 49 V. c. 15, s. 21.

Judgment by Default where Specially Indorsed Summons.

In proceedings
by special
summons
final judgment entered
by the Clerk,
when claim
not disputed,
etc.

109.—(1) In actions brought in a Division Court for the recovery of any debt or money demand, where the particulars of the plaintiff's claim, with reasonable certainty and detail, are indorsed on or attached to the summons, and a copy of the summons and particulars, with a notice in the form prescribed by the General Rules or Orders relating to Division Courts from time to time in force, annexed to or endorsed on such copy, has been duly served, then, unless the defendant has left with the clerk, within eight days after the day of service (where the service is required to be ten days before the return), or within twelve days after the day of service (where the service is required to be fifteen days or twenty days before the return) a notice to the effect that he disputes the claim, or some part, and how much thereof, final judgment may be entered by the clerk on the return of such summons, or at any time within one month thereafter for the amount claimed in such particulars or so much thereof as has not been disputed, if the plaintiff is content with judgment for such part; and execution may afterwards issue thereon at the instance of the plaintiff.

Summons,
particulars
and affidavit
to be filed.

(2) The final judgment so entered may be in the form prescribed by the General Rules or Orders relating to Division Courts from time to time in force, but no such judgment shall be so entered until the summons and particulars, with an affidavit of the due service of both, have been filed.

Judge may set
aside judgment.

(3) The Judge may set aside such judgment, and permit the case to be tried, on sufficient grounds shewn, on such terms as to costs and otherwise as he thinks just. R. S. O. 1877, c. 47, s. 79.

Judgment by
default under
s. 109, where
final judgment not
entered.

110. When due proof is made by affidavit or otherwise of the service of a special summons issued under the preceding section of this Act, and of particulars of the plaintiff's claim or demand as required by the said section, and final

judgment has not been entered under the provisions thereof, the Judge may, if the defendant does not, in person or by agent, appear in open court pursuant to and as required by the summons, give judgment against the defendant by default, without requiring proof of the plaintiff's claim or demand, and with the same consequences and effect as if the plaintiff had proved his claim or demand in open court. 48 V. c. 14, s. 3.

111.—(1) Where the defendant in an action within the meaning of section 109 of this Act, has left with the clerk a notice to the effect in the said section provided, the plaintiff in the action may, on an affidavit made by himself, or by any other person who can swear positively to the debt or cause of action, verifying the cause of action, and stating that in his belief there is no defence to the action, serve the defendant with a notice of motion to shew cause before the Judge of the Division Court in which the action is brought, why the plaintiff should not be at liberty to have final judgment entered in his favour by the clerk for the amount of the debt or money demand sought to be recovered in the action, together with interest, if any, and costs. A copy of the affidavit shall accompany the notice of motion. The Judge may thereupon, unless the defendant, by affidavit or otherwise, satisfy the judge that he has a good defence to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend the action, make an order empowering the clerk to sign final judgment accordingly. Motion for
udgment.

(2) The application by the plaintiff for leave to have final judgment entered in his favour under the provisions of this section, shall be made on notice returnable not less than two clear days after service.

(3) The defendant may shew cause against the application by offering to bring into court the amount sought to be recovered in the action, or by affidavit. In the affidavit he shall state whether the defence he alleges goes to the whole or to part only, and if so, to what part of the plaintiff's claim. And the Judge may, if he thinks fit, order the defendant to attend and be examined upon oath, or to produce any books or documents, or copies of, or extracts therefrom.

(4) In case it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of his claim is admitted to be due, the plaintiff shall be entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, or the payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs, or otherwise, as the judge may think fit; and the defendant may be allowed to defend as to the residue of the plaintiff's claim.

(5) If it appears to the Judge that any defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to have final judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

(6) Leave to defend may be given unconditionally, or subject to such terms as to giving security or otherwise, as the Judge may think fit.

(7) Nothing in this section contained shall apply to any action in which the amount of the debt or claim sought to be recovered does not exceed \$40. 48 V. c. 14, s. 4 (1-7).

Leave to dispute claim at any time before judgment.

112. The Judge, at any time before judgment actually entered, although the time for giving the notice disputing the plaintiff's claim has expired, may, on sufficient grounds shewn, and on such terms as he thinks just, grant leave to the defendant to dispute the plaintiff's claim, in which case the requisite notice disputing the claim shall immediately be left with the clerk, and also sent to the plaintiff, by prepaid letter through the post or otherwise. R. S. O. 1877, c. 47, s. 80.

Withdrawal of defence.

113. A defendant who has filed a notice of defence in any action may, by notice in writing to the clerk, at least six days before the sittings at which the same may be tried, withdraw such defence, and consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by mail, and thereupon the plaintiff shall be entitled to have judgment entered by the clerk as by default for such amount, and the costs necessarily incurred. 49 V. c. 15, s. 20.

Trial.

Judge may summarily dispose of cause or non-suit plaintiff.

114. In cases in which a trial is to be had, the defendant shall, on the day named in the summons, either in person or by some person on his behalf, appear in the court to answer, and, on answer being made, the Judge shall, without further pleading or formal joinder of issue, proceed, in a summary way, to try the cause and give judgment; and in case satisfactory proof is not given to the Judge entitling either party to judgment, he may nonsuit the plaintiff; and the plaintiff may, before verdict in jury cases, and before judgment pronounced in other cases, insist on being nonsuited. R. S. O. 1877, c. 47, s. 81.

Order in which actions to be tried.

115. The clerk shall place all actions in which the sum sought to be recovered exceeds \$100 at the foot of the trial list, and the other actions on the list and business of the court shall be disposed of before entering upon the trial of any of the first

mentioned actions, unless the Judge shall, for special reason or reasons, otherwise order : the Judge shall, in such cases, when no agreement not to appeal has been signed and filed, take down the evidence in writing, and shall leave the same with the clerk of the court but in the event of an application for a new trial it shall be forwarded to the Judge by the clerk for the purposes of such application. 43 V. c. 8, s. 5.

Evidence to be taken down.

116. No appeal shall lie to the Court of Appeal if before the court opens, or if without the intervention of the Judge before the commencement of the trial, there shall be filed with the clerk, in any case, an agreement in writing not to appeal, signed by both parties, or their solicitors or agents, and the Judge shall note in his minutes whether such agreement was so filed or not, and the minutes shall be conclusive evidence upon that point. 43 V. c. 8, s. 6.

Parties may agree not to appeal.

117. If on the day named in the summons the defendant does not appear, or sufficiently excuse his absence, or if he neglects to answer, the Judge, on proof of due service of the summons and copy of the plaintiff's account, claim or demand, may proceed to the hearing or trial of the cause on the part of the plaintiff only, and the order, verdict or judgment thereupon shall be final and absolute, and as valid as if both parties had attended ; and, except in tort or trespass, in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the Judge may, in his discretion, give judgment without further proof. R. S. O. 1877, c. 47, s. 82.

Proceedings in case defendant does not appear.

118. In case the Judge thinks it conducive to the ends of justice, he may adjourn the hearing of any cause in order to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable the party to enter more fully into his case or defence, or for any other cause which the Judge thinks reasonable, upon such conditions as to the payment of costs and admission of evidence or other equitable terms, as to him seems meet. R. S. O. 1877, c. 47, s. 83.

Judge may adjourn hearing of cause.

119. Where an action is being tried by a jury, the Judge, if he thinks it expedient for the interest of justice, may postpone or adjourn the trial for such time and upon such terms, if any, as he shall think fit. 48 V. c. 14, s. 10.

Postponement of trial.

120. Any person may appear at the trial or hearing of any cause, matter or proceeding as agent and advocate for any party to any such cause, matter or proceeding in the Division Courts. R. S. O. 1877, c. 47, s. 84.

All persons empowered to act as agents or advocates.

121. The Judge or acting Judge may, wherever in his opinion justice appears to require it, prevent any person from appearing at the trial or hearing of any cause, matter or proceeding in the court, as agent and advocate for any party

Judge may prevent any one from acting as agent or advocate in certain cases.

or parties to any such cause, matter or proceeding. R. S. O. 1877, c. 47, s. 85.

Tender or Payment of Money into Court.

Plea of tender and payment of money into Court.

122. If the defendant in an action of debt or contract brought against him in a Division Court, desires to plead a tender before action brought, of a sum of money in full satisfaction of the plaintiff's claim, he may do so on filing his plea with the clerk of the court before which he is summoned to appear, at least six days before the day appointed for the trial of the cause, and at the same time paying into court the amount of the money mentioned in the plea; and notice of the plea and payment shall be forthwith communicated by the clerk of the court to the plaintiff by post (on receiving the necessary postage), or by sending the same to his usual place of abode or business. R. S. O. 1877, c. 47, s. 86.

Amount to be paid to plaintiff, etc.

123. The said money shall be paid to the plaintiff, less \$1 to be paid over to the defendant for his trouble, in case the plaintiff does not further prosecute his action; and all proceedings in the action shall be stayed unless the plaintiff, within three days after the receipt of notice of the payment, signifies in writing to the clerk of the court his intention to proceed for his demand, notwithstanding such plea; and in such case the action shall proceed accordingly. R. S. O. 1877, c. 47, s. 87.

Rule as to costs in such cases.

124. If the decision thereon be for the defendant, the plaintiff shall pay the defendant his costs, charges and expenses, to be awarded by the court, and the amount thereof may be paid over to him out of the money so paid in with the said plea, or may be recovered from the plaintiff in the same manner as any other money payable under a judgment of the court; but, if the decision be in favour of the plaintiff, the full amount of the money paid into court as aforesaid shall be applied to the satisfaction of his claim and a judgment may be pronounced against the defendant for the balance due and the costs of suit according to the usual practice of the court in other cases. R. S. O. 1877, c. 47, s. 88.

Defendant may pay money into Court.

125. The defendant may at any time, not less than six days before the day appointed for the trial, pay into court such sum as he thinks a full satisfaction for the plaintiff's demand, together with the plaintiff's costs up to the time of such payment. R. S. O. 1877, c. 47, s. 89.

Clerk to give notice of payment to plaintiff.

126. The clerk having received the necessary postage, shall forthwith send notice of the payment to the plaintiff by post or otherwise to his usual place of abode or of business, and the sum so paid shall be paid to the plaintiff, and all proceedings in the action stayed, unless within three days after the receipt

of the notice the plaintiff signifies in writing to the clerk his intention to proceed for the remainder of the demand claimed, in which case the action shall proceed as if brought originally for such remainder only. R. S. O. 1877, c. 47, s. 90.

127. If the plaintiff recovers no further sum in the action than the sum paid into court, the plaintiff shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, and such costs, charges and expenses shall be duly taxed, and may be recovered by the defendant by the same means as any other sum ordered to be paid by the court. R. S. O. 1877, c. 47, s. 91.

Plaintiff to pay defendant's costs if no further sum recovered.

Set-off and Statutory Defences.

128. In case the defendant desires to avail himself of the law of set-off, or of the Statute of Limitations, or of any defence under any other statute having force of law in Ontario, he shall, at least six days before the trial or hearing, give notice thereof in writing to the plaintiff, or leave the same for him at his usual place of abode if within the division, or, if living without the division, shall deliver the same to the clerk of the court in which the action is to be tried; and in case of a set-off the particulars thereof shall be delivered to the clerk and shall accompany the notice to be given as aforesaid to the plaintiff. R. S. O. 1877, c. 47, s. 92.

Defendant to give notice of set-off or other statutory defence.

129. No evidence of set-off shall be given by the defendant except such as is contained in the particulars of set-off delivered. R. S. O. 1877, c. 47, s. 93.

Evidence of set-off.

130. If the set-off, proved to the satisfaction of the Judge, exceeds the amount shewn to be due to the plaintiff, the plaintiff shall be non-suited or the defendant may elect to have judgment for the excess, provided the excess be an amount within the jurisdiction of the court, and if the excess be greater in amount than the jurisdiction of the court the Judge may adjudicate that an amount of the set-off equal to the amount shewn to be due to the plaintiff be satisfied by the claim but the adjudication shall be no bar to the recovery by the defendant in a subsequent action for the residue of the set-off. 43 V. c. 8, s. 55.

Provisions if set-off exceeds amount due to plaintiff.

WITNESSES AND EVIDENCE.

Subpœnas.

131. Any of the parties to an action may obtain, from the clerk of any Division Court in the county, a subpœna with or without a clause for the production of books, papers and writings, requiring any witness, resident within the Province or served with the subpœna therein, to attend at a specified

Parties may obtain subpœnas from Clerk.

court or place before the Judge, or any arbitrator appointed by him under the provision hereinafter contained, and the clerk, when requested by any party to an action, or his agent, shall give copies of such subpoena. R. S. O. 1877, c. 47, s. 95; 49 V. c. 15, s. 9.

Service of subpoena, by whom made.

132. Any number of names may be inserted in a subpoena, and service thereof may be made by any literate person, and proof of the due service thereof, together with the tender or payment of expenses, may be made by affidavit, and proof of service may be received by the Judge, either orally or by affidavit. R. S. O. 1877, c. 47, s. 96.

Penalty for disobeying subpoena or refusing to be sworn.

133. Every person served with a copy of a subpoena either personally or at his usual place of abode, and to whom at the same time a tender of payment of his lawful expenses is made, who refuses or neglects without sufficient cause to obey the subpoena, and also every person in court called upon to give evidence, who refuses to be sworn (or affirm where affirmation is by law allowed) or to give evidence, shall pay such fine not exceeding \$8 as the Judge may impose, and shall, by verbal or written order of the Judge, be, in addition, liable to imprisonment for any time not exceeding ten days; and the fine shall be levied and collected with costs, in the same manner as fines imposed on jurymen for non-attendance, and the whole or any part of the fine, in the discretion of the Judge, after deducting the costs, shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the Consolidated Revenue Fund. R. S. O. 1877, c. 47, s. 97.

Expenses to be paid witness out of county.

134. Any person served with such subpoena, who is resident in Ontario, but out of the county in which the Division Court is situate, shall be entitled to be paid witness fees and mileage according to the County Court tariff. 49 V. c. 15, s. 10.

Commissions to take Evidence.

Power to issue commissions to take evidence.

135. In case the plaintiff or defendant in an action in a Division Court is desirous of having at the trial thereof the testimony of a person residing without the limits of the Province, the Judge of the County Court of the county wherein the action is pending, may, upon the application of the plaintiff or defendant, and upon hearing the parties, order the issue of a commission out of and under the seal of the County Court to a commissioner to take the examination of such person. R. S. O. 1877, c. 47, s. 99.

When commission to take evidence of applicant, etc., may be granted.

136. No order shall be made for the issue of such commission for the taking of the evidence of the person applying therefor, or any person in his employment, unless in the opinion of the Judge a saving of expense will be caused thereby, or

unless it is clearly made to appear that the person is aged, infirm, or unable from sickness to appear as a witness. R. S. O. 1877, c. 47, s. 100.

137. In case it be made to appear to the Judge that a material and necessary witness residing within the Province is sick, aged, or infirm, or that he is about to leave the Province, and that his attendance at Court as a witness cannot by reason thereof be procured, the Judge may make an order appointing a suitable person to take the evidence of the said person. A copy of the order, with two days' notice of the time, and place of the examination shall be served upon the opposite party, his solicitor or agent, who may appear, and cross examine the witness. The evidence shall be taken on oath, and shall be reduced to writing, and signed by the witness, and shall be transmitted to the clerk of the Court, and shall be by him kept on file, and may be used upon the trial saving all just exceptions. The costs of the order shall be in the discretion of the Judge, and the reasonable charge of the examiner (to be fixed by the Judge) shall, in the first instance be paid by the party obtaining the order, as in the case of witness fees, and shall thereafter be paid as the Judge may order. 49 V. c. 15, s. 18.

Examination of witnesses whose attendance at trial cannot be obtained.

138.—(1) An order may also be obtained for the examination of a witness who resides in a remote part of the Province, and at a great distance from the place of trial, if it be clearly made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or would be so great that the party desiring his attendance should not, under the circumstances, be required to incur the same; and the proceedings thereon, and the order as to costs, shall be the same as in the case of an order in the next preceding section mentioned.

Examination of witness residing at a distance from place of trial.

(2) The person appointed under this and the next preceding section shall have authority to administer an oath to the person to be examined. 49 V. c. 15, s. 19.

139. The provisions of the Rules of the Supreme Court of Judicature, so far as the same are applicable, shall apply to every commission issued under the authority of this Act. R. S. O. 1877, c. 47, s. 101.

Rules made applicable to commissions.

140. The commission, when returned, shall with the evidence taken thereunder, and the papers returned therewith by the commissioner, be forthwith transmitted by the clerk of the County Court to the clerk of the Division Court in which the action to which the same relates is pending. R. S. O. 1877, c. 47, s. 102.

Return of commission.

141. The costs of and attending the application for the issue, execution, return and transmission of such commis-

Costs of commission.

sion shall be in the discretion of the court in which the action is pending, and shall be taxed on the County Court scale by the clerk of the County Court out of which the same issued on notice to all parties interested, and the clerk shall certify the result of the taxation accompanied by a copy of the bill of costs as taxed, to the clerk of the Division Court in which the action is pending; and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered by the party entitled thereto in like manner as the ordinary costs of the action are recoverable by the practice of the Division Courts. R. S. O. 1877, c. 47, s. 103.

Books of Account, Affidavits, etc., as evidence.

Judge may receive in evidence plaintiff's or defendant's books of account.

142. In an action for a debt or demand, not being for tort and not exceeding \$20, the Judge, on being satisfied of their general correctness, may receive the plaintiff's books as evidence, or in case of a defence of set-off or of payment, so far as the same extends to \$20, may receive the defendant's books as evidence, and the Judge may also receive as evidence the affidavit or affirmation of any party or witness in the action resident without the limits of his county, but, before pronouncing judgment, the Judge may require such witness or any party in a cause to answer upon oath or affirmation any interrogatories that may be filed in the action. R. S. O. 1877, c. 47, s. 104.

Affidavits may be sworn before a Judge, Clerk, etc.

143. All affidavits to be used in Division Courts or before any of the Judges thereof, may be sworn before a County Judge or before the Clerk or Deputy Clerk of a Division Court, or before a Judge, Notary Public or Commissioner for taking affidavits in the High Court. R. S. O. 1877, c. 47, s. 105; 48 V. c. 16, s. 1.

JUDGE'S DECISION.

Judge may give judgment instant, or postpone judgment.

144. The Judge, in any case heard before him shall, openly in court and as soon as may be after the hearing, pronounce his decision; but if he is not prepared to pronounce a decision instant, he may postpone judgment and name a subsequent day and hour for the delivery thereof in writing at the clerk's office; and the clerk shall then read the decision to the parties or their agents, if present, and he shall forthwith enter the judgment, and such judgment shall be as effectual as if rendered in court at the trial. R. S. O. 1877, c. 47, s. 106.

Judge may direct times and proportions in which judgment shall be paid.

145. The Judge may order the time or times and the proportions in which any sum and costs recovered by judgment of the court shall be paid, reference being had to the day on which the summons was served, and at the request of the party entitled thereto, he may order the same to be paid into court, and the Judge, upon the application of either party, within

fourteen days after the trial, and upon good grounds being shewn, may grant a new trial upon such terms as he thinks reasonable, and in the meantime may stay proceedings. R. S. O. 1877, c. 47, s. 107.

146. Upon an application for a new trial the Judge, instead of granting a new trial, may pronounce the judgment which in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly. 47 V. c. 10, s. 10 (4). Judgment in applications for new trials, and on appeals.

147. Except in cases where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from service of the summons without the consent of the party entitled to the same, but in case it at any time appears to the satisfaction of the Judge, by affidavit, affirmation or otherwise, that a defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof, ordered to be paid as aforesaid, the Judge may suspend or stay any judgment, order or execution given, made or issued in the action, for such time and on such terms as he thinks fit, and so from time to time until it appears by the like proof that the temporary cause of disability has ceased. R. S. O. 1877, c. 47, s. 108. Execution not to be postponed for more than 50 days.

APPEALS.

148.—(1) In case a party to a cause, wherein the sum in dispute upon the appeal exceeds \$100 exclusive of costs, is dissatisfied with the decision of the Judge, upon an application for a new trial, he may appeal to the Court of Appeal, and in such case the proceedings in and about the appeal, and the giving and perfecting of the security, shall be the same as on an appeal from the County Court, except where otherwise provided by this Act, and the terms "party to a cause" and "appellant" in this section and hereafter used, shall have the meaning attached thereto in and by section 40 of *The County Courts Act*. 43 V. c. 8, s. 17. Appeal. Rev. Stat c. 47.

(2) An appeal shall also lie to the Court of Appeal from the decision of a Division Court Judge upon an application for a new trial in all actions in which the parties consent to an appeal, and in interpleader, where the money claimed, or the value of the goods or chattels claimed or of the proceeds thereof, exceeds \$100, or where the damages claimed by or awarded to either party against the other or against the bailiff, exceed the sum of \$60. 47 V. c. 10, s. 9; 48 V. c. 14, s. 7. Appeal in Interpleader proceedings.

149. A Judge of the County Court for the county in which the cause was tried, on the application of the person proposing to appeal, his counsel, solicitor or agent, shall stay the proceedings in the cause, for a time not exceeding ten Stay of proceedings.

days from the day of giving judgment on the application for a new trial, in order to afford the party time to give the security required to enable him to appeal. 43 V. c. 8, s. 18.

Agent for
service.

150. Upon an application for a new trial in any cause wherein either party may appeal, each party shall leave with the Judge by whom the application is heard, a memorandum in writing of the name of some person resident within the county town of the county or united counties in which the cause was tried, with his place of abode, upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of abode, shall be sufficient service thereof; and, in the event of failure to leave such memorandum by either party, all papers requiring service upon him may be served upon the clerk of the Division Court where the trial was had, or left at his office, for the person so failing to leave such memorandum, and such service shall be good service; the clerk shall, in such case, forthwith mail, by registered letter, all such papers so served upon him to the person entitled to the same. 43 V. c. 8, s. 19.

Evidence, etc.,
to be certified.

151. Upon the bond being approved by the Judge, or the deposit being paid into court, the clerk of the court in which the action or proceeding is pending, shall, at the request of the appellant, his counsel, solicitor, or agent, furnish a duly certified copy of the summons with all notices indorsed thereon, the claim, and any notice or notices of defence, and of the evidence and all objections and exceptions thereto, and of all motions or orders made, granted, or refused therein, together with such notes of the Judge's charge as have been made, the judgment or decision when in writing, or the notes thereof, and all affidavits filed or used in the cause, together with all other papers filed in the cause affecting the questions raised by the appeal; the clerk shall also furnish to the respondent, when required so to do, a duplicate copy of the proceedings so furnished to the appellant, or such portion thereof as may be required by him, and for every copy he shall be entitled to receive the sum of five cents per folio of one hundred words. 43 V. c. 8, s. 20.

Setting down
appeals.

152. The appellant shall within two weeks after the approval of the security or deposit being paid into court, or at such other time as the Judge of the said County Court may by order in that behalf provide, file the said certified copy with the Registrar of the Court of Appeal, and shall thereupon forthwith set down the cause for argument before a Judge of the said Court of Appeal, and shall forthwith give notice thereof, and of the appeal, and of the grounds thereof, to the respondent, his counsel, solicitor, or agent, at least seven days before the day for which the same is set down for hearing, and the said appeal may be heard and disposed of by a single Judge of the Court

Hearing.

of Appeal, and he shall have power to dismiss the appeal or give any judgment and make any order which ought to have been made, and he shall give such order or direction to the court below touching the decision or judgment to be given in the matter as the law requires, and shall also award costs to the party in his discretion, which costs shall be certified to and form part of the judgment of the court below, and upon receipt of such order, direction and certificate, the court below shall proceed in accordance therewith. 43 V. c. 8, s. 21; 47 V. c. 10, s. 10 (4). Costs.

153. The costs taxable, as between party and party upon or connected with any appeal shall be the actual disbursements and no greater amount over and above actual disbursements than \$15, inclusive of counsel fee; the costs of such appeal, as between solicitor and client, shall be taxable on the county court scale: section 156 of *The Judicature Act* shall not apply to appeals made under this Act. 43 V. c. 8, s. 22. Taxable costs.
Rev. Stat.
c. 44.

JURIES.

154. Either party may require a jury in tort or replevin where the sum or the value of the goods sought to be recovered exceeds \$20, and in all other cases where the amount sought to be recovered exceeds \$30. 43 V. c. 8, s. 43. When a jury
may be re-
quired.

155.—(1) Either party to an interpleader issue in a Division Court may require a jury to be summoned to try the issue and in such case he shall, within five days after the day of service of the summons on him, give to the clerk or leave at his office notice in writing, requiring a jury, and shall at the same time pay to the clerk the proper fees for the expenses of the jury, and thereupon a jury shall be summoned according to the provisions of this Act. Right to jury
in inter-
pleader.

(2) Sections 115, 116, and 208, shall extend and apply to all interpleader issues and other actions mentioned in subsection 2, of section 148. 47 V. c. 10, s. 10 (1-3).

156. In case the plaintiff requires a jury to be summoned to try the action, he shall give notice thereof in writing to the clerk at the time of entering his account, demand or claim, and shall at the same time pay to the clerk the proper fees for the expenses of such jury; and in case the defendant requires a jury, he shall, within five days after the day of service of the summons on him, give to the clerk or leave at his office the like notice in writing, and shall at the same time pay the proper fees as aforesaid; and thereupon, in either of such cases, a jury shall be summoned according to the provisions herein-after contained. R. S. O. 1877, c. 47, s. 110. Parties to give
notice to Clerk
if they require
a jury.

157. All male persons being subjects of Her Majesty by birth or naturalization, between the ages of twenty-one and Who may be
jurors.

sixty years, assessed upon the collector's roll, and resident in the several divisions respectively, shall be jurors for the Division Courts in such divisions. R. S. O. 1877, c. 47, s. 111.

Jurors, how selected and summoned.

158.—(1) The jurors to be summoned to serve at a Division Court shall be taken from the collector's rolls of the preceding year for the townships and places wholly or partly within the division, and shall be summoned in rotation, beginning with the first of such persons on the roll; and if there be more than one township or place within the division, beginning with the roll for that within which the court is held, and then proceeding to that one of the other rolls which contains the greatest number of such persons' names, and so on until all the rolls have been gone through; after which, if necessary, they may be again gone through wholly or partly in the same order, and so on *toties quoties*. R. S. O. 1877, c. 47, s. 112.

(2) In case it shall not be necessary to summon all the persons on the roll or rolls entitled to be summoned in any one year, the clerk shall, at the end of each year, so certify on the roll, and shall state in the certificate the number of persons summoned during the year, and at what number on the roll he left off; and, in summoning persons for the next year, he shall begin with the next number on the roll as nearly as he conveniently can; and so on from year to year until all the rolls have been gone through. 43 V. c. 8, s. 44.

Collector to furnish Clerk with list of jurors.

159. For the purposes of the last preceding section, the collector for each place wholly or partly within any division, shall furnish the clerk of the Division Court thereof with correct lists of the names of all persons liable to serve as jurors at such court in the order in which they stand upon the rolls. R. S. O. 1877, c. 47, s. 113.

Summoning jurors.

160. For the trial of actions required to be tried by or before a jury at any session of a Division Court the clerk of the court shall cause not less than twelve of the persons liable to serve as jurors to be summoned to attend at such session at the time and place to be mentioned in the summons, and the summons shall be served at least three days before the court, either personally, or by leaving the same with a grown up person at the residence of the juror. 48 V. c. 14, s. 5.

Parties entitled to challenge.

161. Either of the parties to a cause shall be entitled to his lawful challenge against any of the jurors in like manner as in other courts. R. S. O. 1877, c. 47, s. 115.

Penalty on jurors disobeying summons.

162. Any juryman who, after being duly summoned for that purpose, wilfully neglects or refuses to attend the court, in obedience to the summons, shall be liable to a fine in the discretion of the Judge, not exceeding \$4, which fine shall be

levied and collected with costs, by the same process as any debt or judgment recovered in the said court, and shall form part of the Consolidated Revenue Fund. R. S. O. 1877, c. 47, s. 116.

163. Service as a juror at a Division Court shall not exempt such juror from serving as a juror in any Court of Record; and no person shall be compelled to serve as a juror in any Division Court who is by law exempted from serving as a petit juror in the High Court. R. S. O. 1877, c. 47, s. 117.

Service as juror at Division Court not to exempt him from serving in Courts of Record.

164. If a collector, for six days after demand made in writing, neglects or refuses to furnish the clerk of the Division Court in which the township, town, city or ward for which he is a collector is wholly or in part situate, with a correct list of the names of persons liable to serve as jurors in the Division Court, according to the provisions of section 157 of this Act, the clerk may issue a summons to be personally served on the collector three days at least before the sitting of the court, requiring him to appear at the then next sitting of the court, to shew cause why he refused or neglected to comply with the provisions of the said section. R. S. O. 1877, c. 47, s. 118.

Proceedings against collector neglecting to furnish clerk with list of jurors.

165. Upon proof of the service of the summons, the Judge may, in a summary manner, inquire into the neglect or refusal, or may give further time, and may impose such fine upon the collector, not exceeding \$20, as he deems just, and may also make such order for the payment by the collector of the costs of the proceedings as to the said Judge seems meet; and all orders made by the Judge for the payment of a fine or costs shall be enforced against the collector by such means as are provided for enforcing judgments in the Division Courts. R. S. O. 1877, c. 47, s. 119.

Judge may fine collector for breach of duty.

166. The causes to be heard by the Judge alone shall be set down for hearing in a separate list from the list of causes to be tried by a jury, which two lists shall be severally called "The Judge's List," and "The Jury List," and the causes shall be set down in the lists in the order in which they were in the first instance entered with the clerk;—"The Jury List" shall be first disposed of, and then "The Judge's List;" except where the Judge sees sufficient cause for proceeding differently. R. S. O. 1877, c. 47, s. 120.

Judge's list and Jury list.

167. Five jurors shall be empanelled and sworn to do justice between the parties whose cause they are required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and the verdict of every jury shall be unanimous. In the event of the panel being exhausted before a jury shall be obtained, the Judge may direct the clerk to summon from the body of the court a sufficient

Five jurors to be empanelled, etc.

Verdict to be unanimous.

Judge may call tales.

number of disinterested persons to make up a full jury, and any person so summoned may, saving all lawful exceptions and rights of challenge, sit and act as a juror as fully as though he had been regularly summoned. R. S. O. 1877, c. 47, s. 121; 43 V. c. 8, s. 49.

Judge may order jury to be empaneled to try any disputed fact.

168. In case the Judge before whom an action is brought thinks it proper to have any fact controverted in the cause tried by a jury, the clerk shall instantly return a jury of five persons present, to try such fact, and the Judge may give judgment on the verdict of the jury, or may grant a new trial on the application of either party, in the same way and under similar circumstances as new trials are granted in other cases on verdicts of juries; this section shall extend and apply to the trial of an interpleader issue. R. S. O. 1877, c. 47, s. 122; 47 V. c. 10, s. 10 (2).

Judge may discharge jury not agreeing, etc.

169. If in any case the Judge is satisfied that a jury, after having been out a reasonable time, cannot agree upon their verdict, he may discharge them, and adjourn the cause until the next court, and order the clerk to summon a new jury for the next sitting of the court for that division, unless the parties consent that the Judge may render judgment on the evidence already taken, in which case he may give judgment accordingly. R. S. O. 1877, c. 47, s. 123.

Fees for jury fund.

170. There shall be paid to the clerk of the Division Court, in addition to all costs or jury fees, now by law payable, on every action entered where the claim exceeds \$20 but does not exceed \$60, three cents; where the claim exceeds \$60, but does not exceed \$100, six cents; and where the claim exceeds \$100, twenty-five cents; and the same shall be taxed and allowed as costs in the cause; and, on or before the 15th day of January in every year, every clerk shall return to the treasurer of the county a statement, under oath, shewing the number of actions originally entered in his court during the year previous, in which the claim exceeded \$20 but did not exceed \$60, the number in which the claim exceeded \$60, but did not exceed \$100, and the number in which the claim exceeded \$100; and he shall, with the statement, pay over to the treasurer the sum of three cents on every action so entered where the claim exceeded \$20 but did not exceed \$60; the sum of six cents on every action where the claim exceeded \$60, but did not exceed \$100; and the sum of twenty-five cents on every action where the claim exceeded \$100, together with all other moneys received by him for jurors' fees during the year: and the treasurer shall keep an account of all moneys so received by him under the head of "Division Court Jury Fund." 43 V. c. 8, s. 45.

Return.

Return in cities forming separate divisions.

171. In cities which include one or more entire divisions and no other fraction of a division the clerk shall make the return and payment, provided for by the next preceding sec-

tion, to the treasurer of such city, who shall keep an account of such moneys in the same way as is provided in the case of county treasurers, and shall, on the presentation of the certificate of the Judge, forthwith repay to the clerk of the court the jurors' fees paid by him in the same manner as is hereafter provided in the case of county treasurers. 43 V. c. 8, s. 46.

172. The clerk of every Division Court shall pay to every person who has been summoned as a juror, and who attends during the sittings of the court for which he has been summoned, and who does not attend as a witness in any cause, or as a litigant in his own behalf, the sum of \$1; and having so paid the same, except in the cases in the next preceding section provided for, the presiding Judge shall so certify to the treasurer of the county, and shall deliver the certificate to the clerk, and the treasurer of the county shall, upon the presentation of the certificate to him, forthwith pay to the clerk, or his order, the amount which the clerk appears, by the certificate, to have paid the jurors as aforesaid: in the case of cities, other than those provided for by the next preceding section, and towns separated from the county, the amounts paid in by the clerks of the courts in such cities and towns, and the amounts paid by the county treasurer to the clerks of such courts for jury fees, shall be taken into account in settling the proportion of the charges to be paid by the city or town towards the costs of administration of justice. 43 V. c. 8, s. 47.

Fees of jurors.

PROCEEDINGS TO GARNISH DEBTS.

173. Subject to the provisions of the next section, when a debt or money demand of the proper competence of the Division Court, and not being a claim strictly for damages, is due and owing to one party from another party, either on a judgment of a Division Court or otherwise, and a debt is due or owing to the debtor from any other party, the party to whom such first mentioned debt or money demand is so due and owing (hereinafter designated the primary creditor), may attach and recover, in the manner herein provided, any debt due or owing to his debtor (hereinafter designated the primary debtor), from any other party (hereinafter designated the garnishee), or sufficient thereof to satisfy the claim of the primary creditor, subject always to the rights of other parties to the debts owing from such garnishee. R. S. O. 1877, c. 47, s. 124.

Garnishment of debts.

174. No debt due or accruing to a mechanic, workman, labourer, servant, clerk, or employee for, or in respect of, his wages or salary, shall be liable to seizure or attachment under this Act, or any other Act relating to the attachment or garnishment of debts, unless the debt exceeds the sum of \$25, and then only to the extent of the excess. R. S. O. 1877, c. 47, s. 125; c. 50, s. 318.

Debts due for wages not to be attached, except as to excess over \$25.

Saving clause
as to certain
debts.

175. Nothing in the next preceding section contained shall apply to any case where the debt has been contracted for board or lodging, and in the opinion of the Judge, the exemption of \$25 is not necessary for the support and maintenance of the debtor's family. R. S. O. 1877, c. 47, s. 126; 47 V. c. 9, s. 1; c. 50, s. 319.

Attachment of
debts due for
wages, etc.

176. In all cases where a defendant, primary debtor or garnishee intends to contest the jurisdiction of a Division Court to hear or determine any cause, matter or thing in such court, he shall leave with the clerk of the court, within eight days after the day of service of the summons on him (where the service is required to be ten days before the return), or within twelve days after the day of such service (where the service is required to be fifteen or twenty days before the return), a notice to the effect that he disputes the jurisdiction of the court, and the clerk shall forthwith give notice thereof to the plaintiff, primary creditor, or their solicitor or agents in the same way as notice of defence is now given, and in default of such notice disputing the jurisdiction of the court, the same shall be considered as established and determined, and all proceedings may thereafter be taken as fully and effectually as if the said action or proceeding had been properly commenced, entered or taken in such court; and the notice shall be in writing; and prohibition to a Division Court shall not lie in such action from any Court whatever, where the notice disputing the jurisdiction has not been duly given as aforesaid. 43 V. c. 8, s. 14; 48 V. c. 14, s. 1.

Notice where
jurisdiction of
Court disputed
to be given
in garnishee
cases.

Memorandum
on garnishee
summons.

177. In all cases under the provisions of sections 181 and 185 of this Act where the debt sought to be garnished is for wages or salary, there shall be upon, or annexed to the summons served on the garnishee, a memorandum shewing the residence of the primary debtor and the nature of his occupation in the service of the garnishee at the time of the issuing of the summons (if then in such service), and also stating whether the debt alleged or adjudged to be due by the primary debtor to the primary creditor was or was not incurred for board or lodging, and in the absence of such last mentioned statement the said debt may be presumed by the garnishee not to have been incurred for board or lodging. 49 V. c. 15, s. 11.

Where the Creditor's Claim is a Judgment.

Attaching
order to be
granted on
judgment.

178. After judgment has been recovered in a Division Court, application may be made to a Judge of the court, by or on behalf of the primary creditor, on affidavit that such judgment was recovered, and when, and that the whole, or some part, and how much, thereof remains unsatisfied, and that the deponent has reason to believe, and does believe, that some one or more parties (naming them, or stating that he is unable to name them) is or are within this Province, and is or are indebted to

the primary debtor, for an attaching order (which the Judge is hereby authorized to make), to the effect that all debts owing to the primary debtor, whether due or not due, be attached to satisfy the judgment; which order may be in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts. R. S. O. 1877, c. 47, s. 127.

179. The service of the order on a garnishee shall have the effect (subject to the rights of other parties) of attaching and binding in his hands all debts then owing from him to the primary debtor, or sufficient thereof to satisfy the judgment, and a payment by the garnishee into the court, or to the primary creditor, of the debt so attached to the extent unsatisfied on the judgment, shall be a discharge to that extent of the debt owing from the garnishee to the primary debtor. R. S. O. 1877, c. 47, s. 128.

Service thereof to bind all debts, etc.

Garnishee may pay in his own discharge.

180. Any payment by the garnishee, after service on him of the order, to any one other than the primary creditor, or into court, to satisfy the judgment, shall to the extent of the primary creditor's claim, be void; and the garnishee shall be liable to pay the same again, to the extent of the primary creditor's claim, to satisfy the judgment. R. S. O. 1877, c. 47, s. 129.

Payment to any but primary creditor void.

181. Whether such attaching order is or is not made, the primary creditor may cause to be sued out of the Division Court for the Division in which the garnishee, or one or more of them, if there be joint garnishees, resides or carries on business, a summons in the form prescribed by the General Rules or Orders, from time to time in force, relating to Division Courts, upon or annexed to which shall be a memorandum shewing the names of the parties as designated in the judgment, the date when, and the Court in which, it was recovered, and the amount unsatisfied; which summons shall be returnable either at any ordinary sittings of the Court, or at such other time and place (to be named therein) as the Judge may permit or appoint, either by a general order for the disposal of such matters or otherwise. R. S. O. 1877, c. 47, s. 130.

Primary creditor may summon garnishee, etc.

182. In proceedings under the preceding section, where the garnishees are likewise a body corporate, not having their chief place of business within the Province, then the summons mentioned in said last mentioned section shall be issued from the Division Court in which the judgment has been recovered, and shall be served upon the agent of the body corporate, whose office as such agent is either within the division in which the judgment has been recovered, or is nearest thereto. 47 V. c. 9, s. 3.

Service on corporation, whose head office is not in the Province.

183. A copy of the summons and memorandum shall be duly served on the garnishee, or, if there be joint garnishees, then on such of them as are within reach of the process, at the

Mode of service.

time and in the manner required for the service of summonses in ordinary actions for corresponding amounts, and also on the primary debtor, if thought advisable, or if required by the Judge. R. S. O. 1877, c. 47, s. 131.

Judgment at hearing.

184. At the hearing of the summons, or at any adjourned hearing, on sufficient proof of the amount owing by the garnishee to the primary debtor, and no sufficient cause appearing why it should not be paid and applied in satisfaction of the judgment, the Judge may give judgment against the garnishee (which judgment may be in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts), for the amount so owing from him, or sufficient thereof to satisfy the judgment; and execution against the garnishee to levy the same, may issue thereon as of course, if due, or when and as it becomes due, or at such later period as the Judge may order, which execution may be according to the form prescribed as aforesaid. R. S. O. 1877, c. 47, s. 132.

Where the Primary Creditor's Claim not a Judgment.

Where no judgment, summons on garnishee, etc., to issue.

185.—(1) Where judgment has not been recovered for the claim of the primary creditor, he may cause a summons to be issued out of the Division Court of the Division in which the garnishee, or one or more of them, if there be joint garnishees, live or carry on business, in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, upon or annexed to which shall be a memorandum, shewing the names of the primary creditor, the primary debtor, and of the garnishee, and the particulars of the claim of the primary creditor, with reasonable certainty and detail; which summons shall be returnable as required by section 181 of this Act, in respect to the summonses therein mentioned. R. S. O. 1877, c. 47, s. 133.

(2) In the event of the garnishees being a body corporate, not having their chief place of business within the Province, then the summons shall be issued out of the Division Court for the division in which the cause of action arose, and shall be served upon the agent of the body corporate, whose office, as such agent, is nearest to the place where the cause of action arose. 47 V. c. 9, s. 2.

Who to be deemed agent.

(3) Every person who within Ontario transacts or carries on any business of, or business for, such body corporate, shall for the purpose of this section and of section 182, be deemed the agent thereof. 47 V. c. 9, s. 4.

Service on companies,

186. A copy of the summons and memorandum shall be duly served on the garnishee, or if there be joint garnishees, then on such of them as are within reach of the process, at the time and in the manner required for service in ordinary cases; and also, if practicable, on the primary debtor, unless the Judge for sufficient reason dispenses therewith. R. S. O. 1877, c. 47, s. 134.

187. If in such case the primary debtor has been duly served with a copy of the summons and memorandum, judgment (in the usual form in other cases) may be given against him at the hearing for the primary creditor, for the whole, or such part of the claim as is sufficiently proved, and execution may afterwards issue thereon as in other cases; and whether such judgment is or is not given, the Judge, on sufficient proof of the debt due and owing from the primary debtor, and also of the amount owing to him from the garnishee, may then, or at any adjourned hearing, give judgment against the garnishee (which may be according to the form prescribed as aforesaid) for the amount so found due from the garnishee, to the extent of the amount so found due from the primary debtor, which sum the garnishee shall pay into court, or to the primary creditor, towards the satisfaction of the claim, or in default thereof, execution may issue to levy the same forthwith, or at such later period as the Judge may direct, which execution may be according to the form prescribed as aforesaid. R. S. O. 1877, c. 47, s. 135.

Judgment in such case.

General Provisions.

188.—(1) In cases under this Act, and whether the claim of the primary creditor is or is not a judgment, the primary debtor, the garnishee and all other parties in any way interested in, or to be affected by the proceeding, shall be entitled to set up any defence, as between the primary creditor and the primary debtor, which the latter would be entitled to set up in an ordinary action, and also any such defence as between the garnishee and the primary debtor, and may also shew any other just cause why the debt sought to be garnished should not be paid over or applied in or towards the satisfaction of the claim of the primary creditor. R. S. O. 1877, c. 47, s. 136 (1).

All parties interested may show cause, etc.

(2) A primary debtor or garnishee who desires to set up a statutory or other defence or set-off or to admit his liability in whole or in part for the amount claimed in such action shall file with the clerk the particulars of such defence or set-off, or an admission of the amount due or owing by the primary debtor or the garnishee, as the case may be, within eight days after service on him of the summons, and the clerk shall forthwith send by mail to each of the said parties to the action a copy of such defence, set-off or admission, and the primary creditor may file with the clerk a notice that he admits the defence or set-off or accepts the admission of liability as correct; a copy of the notice shall be sent by the clerk by mail, forthwith to the garnishee, and in the absence of any notice of defence or set-off, from any primary debtor or garnishee, the Judge may, in his discretion, give judgment against such primary debtor or garnishee; and in the event of the primary creditor failing to file a notice admitting or rejecting such defence, set-off or admission of liability, the garnishee shall not be bound to attend at the trial, and the sum admitted to be due or owing by the garnishee, shall be taken to be the

Defences in garnishee proceedings.

correct amount of his liability unless the Judge shall otherwise order, in which latter case the garnishee shall be notified by the clerk and shall have an opportunity of attending at a subsequent date and being heard before judgment is given against him.

Costs

(3) The costs of all notices required to be given under this section, shall be costs in the cause, and in no case shall be payable by the garnishee, unless specially ordered by the Judge. 49 V., c. 15, s. 12.

Service of
summons on
garnishee to
bind debt un-
til hearing,

189. In all cases under this Act, (except where an attaching order has been served, already provided for), service of the summons on the garnishee shall have the effect of attaching and binding in his hands (subject to the rights of other parties), the debt sought to be garnished, from the time of the service until a final decision made on the hearing of the summons; and any payment of the debt by the garnishee during such period, to any one other than the primary creditor, or into court for satisfying his claim shall, to the extent of the claim be void, and the garnishee shall be liable to pay the same again to the extent of the claim to satisfy the same, unless the Judge otherwise orders. R. S. O. 1877, c. 47, s. 137.

and after
judgment.

190. If judgment be given for the primary creditor against the garnishee, the debt garnished shall, unless the Judge otherwise orders, continue bound in the hands of the garnishee to satisfy the claim of the primary creditor; and payment in such case by the garnishee of the debt to the extent of the claim, either into Court or to the primary creditor, shall, to that extent, be a discharge to the garnishee, as between him and the primary debtor; and any payment thereof, otherwise than last aforesaid, except by leave of the Judge, shall be void; and the garnishee in such case shall be liable to pay the same again to satisfy the claim of the primary creditor. R. S. O. 1877, c. 47, s. 138.

Costs.

191. The garnishee shall not be liable for the costs of the proceeding, unless and in so far only as occasioned by setting up a defence, which he knew, or ought to have known, was untenable; and, subject to this provision, the costs of all parties shall be in the discretion of the Judge. R. S. O. 1877, c. 47, s. 139.

Costs of prim-
ary creditor.

192. The Judge in any case brought to garnish a debt, may, in giving judgment on behalf of the primary creditor, award the costs of the proceeding to the primary creditor out of the amount found due from the garnishee to the primary debtor, anything in this Act to the contrary notwithstanding. 43 V. c. 8, s. 65.

Summons and
memorandum
of particulars
to be filed.

193. Judgment shall not be given either against the primary debtor or the garnishee until the said summons and memoran-

dum, with an affidavit of the due service of both on the proper parties, are filed, unless the Judge for special reasons orders otherwise. R. S. O. 1877, c. 47, s. 140.

194. No execution shall in any case issue to levy the money owing from any garnishee until and so far only as such money has become fully due. R. S. O. 1877, c. 47, s. 141.

No execution, till garnishee's debt due.

195. Any party entitled to or interested in any money or debt attached or bound in the hands of the garnishee by a proceeding under this Act, may, at any time before actual payment thereof by the garnishee, apply to the Judge for an order (which the Judge is hereby authorized to make), to the effect that such money or debt be discharged from the claim of the primary creditor; and thenceforth such money or debt shall cease to be attached or bound for such claim; and such an application and such an order may also be made, if the Judge thinks fit, after the money or debt has been paid over by the garnishee, in which case all parties shall be remitted to their original rights in respect thereto, except as against the garnishee having already paid the debt or money, whose payment shall not be affected thereby, but shall be and remain an effectual discharge to him. R. S. O. 1877, c. 47, s. 142.

Application to discharge debt from attachment.

196.—(1) If the Judge, on the hearing of a summons under this Act, or on special application for the purpose, thinks proper, he may, before giving judgment against the garnishee, or at any time before actual payment by the garnishee, order such security to be given as may be approved by himself or the clerk, by or on behalf of the primary creditor, for the repayment into court to abide the Judge's order, in case a Judge's order is made for repayment.

Security from primary creditor.

(2) The bond shall be to the clerk by his name of office, and shall enure for the benefit of all parties interested in or entitled to the money, and may by order of the Judge, and on such terms as to indemnity against costs and otherwise as he may impose, be sued in the name of the clerk of the court for the time being, for the benefit of the party entitled. R. S. O. 1877, c. 47, s. 143.

197. In case any one other than the primary creditor or primary debtor claims to be entitled to the debt owing from the garnishee, by assignment thereof or otherwise, the Judge, when adjudicating in any of the cases aforesaid, or by calling the proper parties before him by summons for the purpose, may enquire into and decide upon the claim, and may allow or give effect to it, or may hold it void as against the primary creditor for being a fraud upon creditors or otherwise, as the justice of the case may require; and for such purpose he may require the attendance of such parties and witnesses (their conduct money being first paid) as he may think necessary. R. S. O. 1877, c. 47, s. 144.

Case of adverse claims.

Judge may postpone or adjourn proceedings.

198. The Judge may postpone or adjourn from time to time, the hearing and other proceedings in garnishee cases to allow time for giving omitted notices of defence, or to produce further evidence, or for any other purpose; and may require service on, and notice to, other or additional parties, and may prescribe and devise forms for any proceeding, and may amend all summonses, memoranda, claims, accounts, notices and other papers and proceedings, and copies thereof as justice may require. R. S. O. 1877, c. 47, s. 145.

Debt attachment book.

199. The Clerks of the several Division Courts shall keep in their respective offices a debt attachment book, according to the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, in which shall be correctly entered the names of parties, the dates, statements, amounts and other proceedings under this Act, as indicated by the said form, and copies of any entries made therein may be taken by any one on application free of charge. R. S. O. 1877, c. 47, s. 146.

ARBITRATION.

Reference to arbitration by order of Judge or by consent.

200. The Judge may, in any case, with the consent of both parties to the action, or of their agents, order the same, with or without other matters in dispute between such parties, being within the jurisdiction of the court, to be referred to arbitration to such person or persons, and in such manner and on such terms as he thinks reasonable and just; or the parties to an action, may by writing, signed by themselves or their agents, agree to refer the matters in dispute to the arbitrament of a person named in the agreement, which shall be filed with the clerk, and be entered on the Procedure Book as notices are entered. R. S. O. 1877, c. 47, s. 147; 49 V. c. 15, s. 13.

Revocation of reference.

201. The reference shall not be revocable by either party, except with the consent of the Judge. R. S. O. 1877, c. 47, s. 148.

Award to be entered as the judgment.

202. The award of the arbitrator or arbitrators or umpire shall be entered as the judgment in the cause, and shall be as binding and effectual as if given by the Judge. R. S. O. 1877, c. 47, s. 149.

Judge may set aside award.

203. The Judge, on application to him within fourteen days after the entry of the award, may, if he thinks fit, set aside the award, or may, with the consent of both parties, revoke the reference and order another reference to be made in the manner aforesaid. R. S. O. 1877, c. 47, s. 150.

Arbitrators may also administer oaths.

204. Any of the arbitrators may administer an oath or affirmation to the parties, and to all other persons examined before such arbitrator. R. S. O. 1877, c. 47, s. 151.

CONFESSIONS OF DEBT.

205. A bailiff or clerk, before or after action commenced, may take a confession or acknowledgment of debt from a debtor or defendant desirous of executing the same, which confession or acknowledgment shall be in writing and witnessed by the bailiff or clerk at the time of the taking thereof; and upon the production of the confession or acknowledgment to the Judge, and its being proved by the oath of the bailiff or Clerk, judgment may be entered thereon. R. S. O. 1877, c. 47, s. 152.

Clerks and bailiffs may take confessions.

206. The oath or affidavit shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant, or any other person, except his lawful fees, for taking the confession or acknowledgment, and that he has no interest in the demand sought to be recovered. R. S. O. 1877, c. 47, s. 153.

Affidavit required in such cases.

COSTS.

207.—(1) The costs of any action or proceeding not otherwise provided for, shall be paid by or apportioned between the parties in such manner as the Judge thinks fit, and in cases where the plaintiff does not appear in person or by some person in his behalf, or appearing does not make proof of his demand to the satisfaction of the Judge, he may award to the defendant such costs and such further sum of money, by way of satisfaction for his trouble and attendance as he thinks proper, to be recovered as provided for in other cases under this Act, and in default of any special direction, the costs shall abide the event of the action, and execution may issue for the recovery thereof in like manner as for any debt adjudged in the court. R. S. O. 1877, c. 47, s. 154.

Judge's authority as to costs.

(2) In all actions or other proceedings brought in a Division Court in which the plaintiff fails to recover judgment by reason of the Court having no jurisdiction over the subject matter thereof, the Judge presiding in the Court shall have jurisdiction over the costs of the action or other proceeding, and may order by and to whom the same shall be paid, and the recovery of the costs awarded to be paid may be enforced by the same remedies as the costs in actions or proceedings within the proper competence of the Court are recoverable. 44 V. c. 5, Rule 489.

208. Where in a contested case for more than \$100, a counsel, solicitor or agent has been employed by the successful party in the conduct of the cause or defence, the Judge may, in his discretion, direct a fee of \$5, to be increased according to the difficulty and importance of the case, to a sum not

Counsel fees.

exceeding \$10, to be taxed to the successful party, and the same, when so allowed, shall be taxed by the clerk and added to the other costs. 43 V. c. 8, s. 16.

Costs of witnesses in certain cases.

209. Where the defendant having disputed the plaintiff's claim afterwards and before the opening of the court confesses judgment or pays the claim so short a time before the sitting of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff *bona fide* and reasonably incurs expenses in procuring witnesses or in attending at court, the Judge may, in his discretion, order the defendant to pay such costs or such portion thereof as to him may seem just. 43 V. c. 8, s. 63.

Costs in actions on judgments.

210. No costs shall be recoverable in an action brought in any Court for the recovery of a sum awarded by judgment in a Division Court without the order of the Judge of the Court in which the action is brought, on sufficient cause shewn. R. S. O. 1877, c. 47, s. 216.

PROCEEDINGS NOT TO BE SET ASIDE FOR MATTER OF FORM.

Proceedings not to be quashed for want of form.

211. No order, verdict, judgment, or other proceeding had or made concerning any matter or thing under this Act, shall be quashed or vacated for any matter of form. R. S. O. 1877, c. 47, s. 155.

JUDGMENT AND EXECUTION.

When money not paid, pursuant to order execution to issue.

212. In case the Judge makes an order for the payment of money, and in case of default of payment of the whole or of any part thereof, the party in whose favour the order has been made, may sue out execution against the goods and chattels of the party in default; and thereupon the clerk, at the request of the party prosecuting the order, shall issue under the seal of the court an execution to one of the bailiffs of the court, who by virtue thereof shall levy by distress and sale of the goods and chattels of such party, being within the county within which the court was holden, such sum of money and costs (together with interest thereon from the date of the entry of the judgment) as have been so ordered, and remain due, and shall pay the same over to the said clerk. R. S. O. 1877, c. 47, s. 156.

Cross judgments may be set off.

213. If there are cross judgments between the parties, the party only who has obtained judgment for the larger sum shall have execution, and then only for the balance over the smaller judgment, and satisfaction for the remainder and also satisfaction on the judgment for the smaller sum shall be entered; and if both sums are equal, satisfaction shall be entered upon both judgments. R. S. O. 1877, c. 47, s. 157.

214. Except in cases brought under section 82 of this Act, no writ in the nature of a writ of execution or attachment shall be executed out of the limits of the county over which the Judge of the Court from which the writ issues has jurisdiction. R. S. O. 1877, c. 47, s. 158.

Writs of execution where to be executed.

215. In case a party against whom a judgment has been entered up removes to another county without satisfying the judgment, the County Judge of the county to which the party has removed may, upon the production of a copy of the judgment duly certified by the Judge of the county in which the judgment has been entered, order an execution for the debt and costs, awarded by the judgment, to issue against such party. R. S. O. 1877, c. 47, s. 159.

If party removes to another county, execution obtainable in such county.

216. If the party against whom an execution has been awarded, pays or tenders to the clerk or bailiff of the Division Court out of which the execution issued, before an actual sale of his goods and chattels, such sum of money as aforesaid, or such part thereof as the party in whose favour the execution has been awarded agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the goods be released and restored to such party. R. S. O. 1877, c. 47, s. 160.

Effect of payment of execution before sale.

217. The clerk of a Division Court shall, upon the application of a plaintiff or defendant (or his agent), having an unsatisfied judgment in his favour in such court, prepare a transcript of the entry of the judgment, and shall send the same to the clerk of any other Division Court, whether in the same or any other county, with a certificate at the foot thereof signed by the clerk who gives the same, and sealed with the seal of the court of which he is clerk, and addressed to the clerk of the court to whom it is intended to be delivered, and stating the amount unpaid upon the judgment and the date at which the same was recovered; and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and certificate, enter the transcript in a book to be kept in his office for the purpose, and the amount due on the judgment according to the certificate; and all proceedings may be taken for the enforcing and collecting the judgment in such last mentioned Division Court, by the officers thereof, that could be had or taken for the like purpose upon judgments recovered in any Division Court. R. S. O. 1877, c. 47, s. 161.

Clerk of any court in which judgment entered to prepare transcript thereof, to transmit to any other Division Court.

218. The clerk of every Division Court shall, immediately after *nulla bona* has been returned to an execution issued on a transcript of judgment received from another court, forward through the post office to the plaintiff, if his address is known, or to the clerk who issued the transcript, at his post-office address, a notice, enclosed in an envelope, informing him of the date at which the execution issued, the date at which

Clerk to give notice to plaintiff of return of *nulla bona* in case of execution on a transcript of judgment.

the same was returned by the bailiff, and the return made thereto; the notice thus sent shall be prepaid and registered, and the clerk shall obtain and file among the papers in the action the post office certificate of the registration, and the postage and charge for registration shall be costs in the cause: the absence from amongst the papers in the action of the certificate of registration shall be *prima facie* evidence against the clerk that the notice has not been forwarded. 45 V. c. 7, s. 6.

Revival or judgment in case of death of party to judgment.

219. In case of the death of either or both of the parties to a judgment in a Division Court, the party in whose favour the judgment has been entered, or his personal representative in case of his death, may revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon in conformity with any rules which apply to the Division Court in that behalf. R. S. O. 1877, c. 47, s. 162.

Execution, when dated and returnable.

220. Every execution shall be dated on the day of its issue, and shall be returnable within thirty days from the date thereof, but may, from time to time, be renewed by the clerk, at the instance of the execution creditor, for six months from the date of such renewal, in the same manner and with the same effect as like writs from the Courts of Record may be renewed under the provisions of *The Execution Act*. R. S. O. 1877, c. 47, s. 163; 43 V. c. 8, s. 64.

Rev. Stat. c. 64.

Renewal of executions by county attorney in certain cases.

221. Where the books, papers and other matters in the possession of any clerk, by virtue of or appertaining to his office, become the property of the County Crown Attorney, under section 50 of this Act, or in case of the suspension of a clerk, the County Crown Attorney may, during such suspension, or until the appointment and qualification of another clerk, when the same shall be presented for that purpose, renew any writ of execution issued out of such court, which may lawfully be renewed, and the renewal shall have the same force and effect as if the same had been renewed by a clerk of the court, and he shall be entitled to the same fees therefor as a clerk for like services. 43 V. c. 8, s. 57.

Judge may order an execution to issue before regular day.

222. In case the Judge is satisfied upon application on oath made to him by the party in whose favour a judgment has been given, or is satisfied by other testimony that such party will be in danger of losing the amount of the judgment, if compelled to wait till the day appointed for the payment thereof before any execution can issue, the Judge may order an execution to issue at such time as he thinks fit. R. S. O. 1877, c. 47, s. 164.

If execution returned *nulla bona*, parties may obtain transcript.

223. In case an execution is returned *nulla bona*, and the sum remaining unsatisfied on the judgment under which the execution issued amounts to the sum of \$40, the plaintiff

or defendant may obtain a transcript of the judgment from the clerk, under his hand and sealed with the seal of the court, which transcript shall set forth,

1. The proceedings in the cause ;
2. The date of issuing execution against goods and chattels ; and
3. The bailiff's return of *nulla bona* thereon, as to the whole or a part. R. S. O. 1877, c. 47, s. 165.

224. Upon filing the transcript in the office of the clerk of the County Court, in the county where the judgment has been obtained, or in the county wherein the defendant's or plaintiff's lands are situate, the same shall become a judgment of the County Court, and the clerk of the County Court shall file the transcript on the day he receives the same, and enter a memorandum thereof in a book to be by him provided for that purpose, which memorandum shall contain,

Upon filing transcript in office of County Court Clerk, judgment to be judgment of that Court.

1. The names of the plaintiff and defendant ;
2. The amount of the judgment ;
3. The amount remaining unsatisfied thereon ; and
4. The date of filing ;

for which services the clerk of the County Court shall be entitled to demand and receive from the person filing the same the sum of fifty cents. R. S. O. 1877, c. 47, s. 166.

225. Such book shall at all reasonable hours be accessible to any person desirous of examining the same, upon the payment to the clerk of ten cents. R. S. O. 1877, c. 47, s. 167.

County Court Clerk's book to be accessible.

226. Upon such filing and entry the plaintiff or defendant may, until the judgment has been fully paid and satisfied, pursue the same remedy for the recovery thereof or of the balance due thereon, as if the judgment had been originally obtained in the County Court. R. S. O. 1877, c. 47, s. 168.

Parties may prosecute judgment in County Court.

227. On any writ of execution against goods and chattels, the sheriff or other officer to whom the same is directed may seize and sell the interest or equity of redemption in any goods or chattels of the party against whom the writ has issued, and the sale shall convey whatever interest the mortgagor had in the goods and chattels at the time of the seizure. R. S. O. 1877, c. 47, s. 169.

The interest of a mortgagor in goods mortgaged may be sold in execution.

228. Every bailiff or officer having an execution against the goods and chattels of any person, may by virtue thereof seize and take any of the goods and chattels of such person (except those which are by law exempt from seizure), and may

What may be seized under execution against goods and chattels.

also seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to such person. R. S. O. 1877, c. 47, s. 170.

Bailiff to hold cheques, notes, etc., seized under execution for benefit of plaintiff.

229. The bailiff shall for the benefit of the plaintiff, hold any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money so seized or taken as aforesaid, as security for the amount directed to be levied by the execution, or so much thereof as has not been otherwise levied or raised, and the plaintiff, when the time of payment thereof has arrived, may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby. R. S. O. 1877, c. 47, s. 171.

Defendant in original cause not to discharge action.

230. The defendant in the original cause shall not discharge such action in any way without the consent of the plaintiff or of the Judge. R. S. O. 1877, c. 47, s. 172.

The party wishing to enforce must secure costs.

231. The party who desires to enforce payment of a security seized or taken as aforesaid, shall first pay or secure all costs that may attend the proceeding; and the moneys realized, or a sufficient part thereof, shall be paid over by the officer receiving the same to apply on the plaintiff's demand, and the overplus, if any, shall be forthwith paid to the defendant in the original action, under the direction of the Judge. R. S. O. 1877, c. 47, s. 173.

Overplus.

Bailiff after seizure of goods to indorse date of seizure and give notice of sale.

232. The bailiff, after seizing goods and chattels by virtue of an execution, shall indorse on the execution the date of the seizure, and shall immediately, and at least eight days before the time appointed for the sale, give public notice by advertisement signed by himself, and put up at three of the most public places in the division where the goods and chattels have been taken, of the time and place within the division when and where they will be exposed to sale; and the notice shall describe the goods and chattels taken. R. S. O. 1877, c. 47, s. 174.

Goods not to be sold till eight days after seizure.

233. The goods so taken shall not be sold until the expiration of eight days at least next after the seizure thereof, unless upon the request in writing under the hand of the party whose goods have been seized. R. S. O. 1877, c. 47, s. 175.

Bailiff and other officers not to purchase goods seized.

234. No clerk, bailiff or other officer of a Division Court shall, directly or indirectly, purchase any goods or chattels at any sale made by any Division Court bailiff under execution, and every such purchase shall be absolutely void. R. S. O. 1877, c. 47, s. 176. *See also* c. 16, s. 27.

EXAMINATION OF JUDGMENT DEBTORS.

235. A party having an unsatisfied judgment or order in a Division Court, for the payment of any debt, damages or costs, may procure from the court wherein the judgment has been obtained, if the defendant resides or carries on his business within the county in which the division is situate, or from any Division Court into which the judgment has been removed under section 217 of this Act and within the limits of which a summons in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, and the summons may be served either personally upon the person to whom the same is directed, or by leaving a copy thereof at the house of the party to be served or at his usual or last place of abode, or with some grown person there dwelling, requiring him to appear at a time and place therein expressed, to answer such things as are therein named, and if the defendant appears in pursuance thereof, he may be examined upon oath touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability, which formed the subject of the action and as to the means and expectation he then had, and as to the property and means he still has of discharging the debt, damages or liability, and as to the disposal he has made of any property: Provided, nevertheless, that before the summons shall issue, the plaintiff, his solicitor or agent, shall make and file with the clerk of the court from which the summons may issue an affidavit stating,

Judgment debtors may be examined at the instance of their creditors.

Affidavit required before judgment summons.

1. That the judgment remains unsatisfied in the whole or in part;

2. That the deponent believes that the defendant sought to be examined is able to pay the amount due in respect of the judgment or some part thereof; or,

3. That the defendant sought to be examined has rendered himself liable to be committed to gaol under this Act. R. S. O. 1877, c. 47, s. 177; 43 V. c. 8, s. 59; 45 V. c. 7, s. 5.

236. The person obtaining the summons and all witnesses whom the Judge thinks requisite, may be examined upon oath, touching the inquiries authorized to be made as aforesaid. R. S. O. 1877, c. 47, s. 178.

Examination of witnesses.

237. The examination shall be held in the Judge's chamber, unless the Judge otherwise directs. R. S. O. 1877, c. 47, s. 179.

The examination to be in Judge's chamber.

238. The costs of the summons and of all proceedings thereon shall be deemed costs in the cause, unless the Judge otherwise directs. R. S. O. 1877, c. 47, s. 180.

Costs.

Party examined and discharged not to be again summoned.

Exception.

239. In case a party has, after his examination, been discharged by the Judge, no further summons shall issue out of the same Division Court at the suit of the same or any other creditor, without an affidavit satisfying the Judge upon facts not before the court upon the examination, that the party had not then made a full disclosure of his estate, effects and debts, or an affidavit satisfying the Judge that since the examination the party has acquired the means of paying. R. S. O. 1877, c. 47, s. 181.

240. If the party so summoned—

Consequence of neglect or refusal to attend.

1. Does not attend as required by the summons, or allege a sufficient reason for not attending; or

2. If he attends and refuses to be sworn or to declare any of the things aforesaid; or

3. If he does not make answer touching the same to the satisfaction of the Judge; or

4. If it appears to the Judge, either by the examination of the party or by other evidence, that the party,

(a) Obtained credit from the plaintiff or incurred the debt or liability under false pretences, or by means of fraud or breach of trust; or

(b) Wilfully contracted the debt or liability without having had at the time a reasonable expectation of being able to pay or discharge the same; or

(c) Has made or caused to be made any gift, delivery or transfer of any property, or has removed or concealed the same with intent to defraud his creditors or any of them; or

5. If it appears to the satisfaction of the Judge that the party had when summoned, or, since the judgment was obtained against him, has had sufficient means and ability to pay the debt or damages, or costs recovered against him, either altogether or by the instalments which the court in which the judgment was obtained has ordered, and if he has refused or neglected to pay the same at the time ordered, whether before or after the return of the summons,

the Judge may, if he thinks fit, order such party to be committed to the common gaol of the county in which the party so summoned resides or carries on his business, for any period not exceeding forty days. R. S. O. 1877, c. 47, s. 182.

In what cases only the party summoned may be committed for non-attendance: costs allowed him in certain cases.

241. A party failing to attend according to the requirements of such summons, shall not be liable to be committed to gaol for the default, unless the Judge is satisfied that such non-attendance is wilful, or that the party has failed to attend after being so summoned; and if at the hearing it appears to the Judge, upon the examination of the party or otherwise, that he ought not to have been so summoned, or if

at the hearing the judgment creditor does not appear, the Judge shall award the party summoned a sum of money by way of compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as any other judgment of the court. R. S. O. 1877, c. 47, s. 183; 43 V. c. 8, s. 60.

242. Where an order of commitment as aforesaid has been made, the clerk of the court shall issue, under the seal of the court, a warrant of commitment directed to the bailiff of any Division Court within the county, and the bailiff may by virtue of the warrant take the person against whom the order has been made. R. S. O. 1877, c. 47, s. 184.

Commitment
in case of
refusal.

243. All constables and other peace officers within their respective jurisdictions shall aid in the execution of every such warrant, and the gaoler or keeper of the gaol of the county in which the warrant has been issued, shall receive and keep the defendant therein until discharged under the provisions of this Act or otherwise by due course of law. R. S. O. 1877, c. 47, s. 185.

Constables,
etc., to execute
warrants.

244. Any person imprisoned under this Act, who has satisfied the debt or demand, or any instalment thereof payable, and the costs remaining due at the time of the order of imprisonment being made, together with the costs of obtaining the order, and all subsequent costs, shall, upon the certificate of such satisfaction, signed by the clerk of the court, or by leave of the Judge of the court in which the order of imprisonment was made, be discharged out of custody. R. S. O. 1877, c. 47, s. 186.

When debtor
in custody
shall be dis-
charged.

245. The Judge before whom the summons is heard may, if he thinks fit, rescind or alter any order for payment previously made against a defendant so summoned before him, and may make any further or other order, either for the payment of the whole of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable and just. R. S. O. 1877, c. 47, s. 187.

Judge may
make order
and may alter
and modify
the same.

246. In case the defendant in an action brought in a Division Court has been personally served with the summons to appear, or personally appears at the trial, and judgment is given against him, the Judge, at the hearing of the cause or at an adjournment thereof, may examine the defendant and the plaintiff and any other person touching the several things hereinbefore mentioned, and may commit the defendant to prison, and make an order in like manner as he might have done in case the plaintiff had obtained a summons for that purpose after judgment. R. S. O. 1877, c. 47, s. 188.

When parties
may be
examined.

Debt not to be
extinguished
by imprison-
ment.

247. No imprisonment under this Act shall extinguish the debt or other cause of action on which a judgment has been obtained, or protect the defendant from being summoned anew and imprisoned for any new fraud or other default rendering him liable to be imprisoned under this Act, or deprive the plaintiff of any right to take out execution against the defendant. R. S. O. 1877, c. 47, s. 189.

Returns by
Judges of
judgment
debtors com-
mitted.

248. Every Judge of a County Court shall make a return to the Provincial Secretary on or before the 15th day of January in every year, shewing the number of judgment debtors who, during the twelve months ending the 31st of December previously, were ordered to be committed under each of the five heads mentioned in section 240 of this Act; and the clerk of every Division Court shall, on or before the 1st day of said month of January, send to the Judge the necessary information in writing for the purposes of such return. 43 V. c. 8, s. 58; 48 V. c. 14, s. 2.

●ABSCONDING DEBTORS.

Absconding
debtors.

249. In case a person, being indebted in a sum not exceeding \$100, nor less than \$4, for any debt or damages arising upon a contract, express or implied, or upon a judgment,

1. Absconds from this Province, leaving personal property liable to seizure under execution for debt in any county in Ontario;

2. Attempts to remove such personal property, either out of Ontario or from one county to another therein;

3. Keeps concealed in any county to avoid service of process and in case any creditor of such person, his servant or agent makes and produces an affidavit or affirmation to the purport of the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, and in case the affidavit or affirmation be filed with the clerk of any Division Court in Ontario, then the clerk upon the application of the creditor, his servant or agent, shall issue a warrant under the hand and seal of the clerk, in the form prescribed by such General Rules and Orders, directed to the bailiff of the Division Court within whose division the same is issued, or to a constable of the county, commanding the bailiff or constable to attach, seize, take and safely keep all the personal estate and effects of the absconding, removing or concealed person within the county, liable to seizure under execution for debt, or a sufficient portion thereof to secure the sum mentioned in the warrant, with the costs of the action, and to return the warrant forthwith to the court out of which the same issued. R. S. O. 1847, c. 47, s. 190.

When Justice
of the Peace
may issue
attachments,
etc.

250. Any County Judge, or a Justice of the Peace for the County, may take the affidavit in the last preceding section mentioned, and upon the same being filed with the Judge or

Justice, the Judge or Justice may issue a warrant under his hand and seal in the form prescribed as aforesaid, and the Judge or Justice shall forthwith transmit the affidavit to the clerk of the Division Court within whose division the same was made or taken, to be by him filed and kept among the papers in the cause. R. S. O. 1877, c. 47, s. 191.

251. Upon receipt of the warrant by the bailiff or constable, and upon being paid his lawful fees, including the fees of appraisement, the bailiff or constable shall forthwith execute the warrant, and make a true inventory of all the estate and effects which he seizes and takes by virtue thereof, and shall within twenty-four hours after seizure, call to his aid two freeholders, who being first sworn by him to appraise the personal estate and effects so seized, shall then appraise the same and forthwith return the inventory attached to the appraisement to the clerk of the court in which the warrant is made returnable. R. S. O. 1877, c. 47, s. 192.

Bailiff or constable to seize and make inventory.

252. In any case commenced by attachment, in a Division Court, the proceedings may be conducted to judgment and execution in the Division Court of the Division within which the warrant of attachment issued. R. S. O. 1877, c. 47, s. 193.

Proceedings may be continued in court out of which attachment issued.

253. Where proceedings have been commenced in any case before the issue of an attachment, the proceedings may be continued to judgment and execution in the Division Court within which the proceedings were commenced. R. S. O., 1877, c. 47, s. 194.

Proceedings commenced before attachment to continue.

254. The property seized upon a warrant of attachment shall be liable to seizure and sale under the execution to be issued upon the judgment, or in case the property was perishable, and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R. S. O. 1877, c. 47, s. 195.

Property attached may be sold under execution.

255. No plaintiff shall divide any cause of action into two or more actions for the purpose of bringing the same within the provisions of the preceding sections, but a plaintiff having a cause of action above the value of \$100 and not exceeding \$200 for which an attachment might be issued if the same were not above the value of \$100 may abandon the excess, and upon proving his case, may recover to an amount not exceeding \$100 and the judgment of the court in such case shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment therein shall be made accordingly. R. S. O. 1877, c. 47, s. 196.

Plaintiff not to divide cause of action.

256. In case several attachments issue against any party then subject to the provisions contained in section 16 of *The Act respecting Absconding Debtors*, the proceeds of the goods and chattels attached shall not be paid over to the attach-

If several attachments issued.

Rev. Stat.
c. 66, s. 16.

ing creditor or creditors according to priority, but shall be ratably distributed among such of the creditors suing out such attachments as obtain judgment against the debtor, in proportion to the amount really due upon such judgments; and no distribution shall take place until reasonable time, in the opinion of the Judge, has been allowed to the several creditors to proceed to judgment. R. S. O. 1877, c. 47, s. 197.

If goods insufficient.

257. Where the goods and chattels are insufficient to satisfy the claims of all the attaching creditors, no such creditor shall be allowed to share unless he sued out his attachment, and within one month next after the issue of the first attachment, gave notice thereof to the clerk of the court out of which the first attachment issued, or in which it was made returnable. R. S. O. 1877, c. 47, s. 198.

Custody of
goods seized
under attachment.

258.—(1) All the property seized under the provisions of the previous sections, shall be, and remain in the custody and possession of the bailiff to whom the warrant of attachment is issued, and he shall take and keep the same until disposed of by law, and he shall be allowed all necessary disbursements and expenses for keeping the same.

"

(2) Where the property is seized under the provisions of the preceding sections by a county constable, it shall be forthwith handed over to the custody and possession of the bailiff of the court out of which the warrant of attachment issued, or into which it was made returnable; and such bailiff shall take the same into his charge and keeping, and shall be allowed all necessary disbursements for keeping the same. 49 V. c. 15, s. 14.

On what terms
goods attached
may be re-
stored.

259. In case a person against whose estate or effects such attachment has issued, or any person on his behalf, at any time prior to the recovery of judgment in the cause, executes and tenders to the creditor who sued out the attachment, and files in the court to which the attachment has been returned, a bond with good and sufficient sureties, to be approved of by the Judge or Clerk, binding the obligors, jointly and severally, in double the amount claimed, with condition that the debtor (naming him) will, in the event of the claim being proved and judgment recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same, or the value of the property so taken and seized, to the claimant or claimants, or produce the property whenever thereunto required, to satisfy the judgment, the clerk may supersede the attachment, and the property attached shall then be restored. R. S. O. 1877, c. 47, s. 200.

If the debtor
does not
appear.

260. If within one month from the seizure as aforesaid, the party against whom the attachment issued, or some one on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been obtained upon the claim or

claims, and the property seized upon the attachment, or enough thereof to satisfy the judgment and costs may be sold for the satisfaction thereof, according to law, or if the property has been previously sold as perishable under the provisions herein-after made, enough of the proceeds thereof may be applied to satisfy the judgment and costs. R. S. O. 1877, c. 47, s. 201.

261. Where the property of any person has been seized under a warrant of attachment as aforesaid, and a summons has been personally served on such person before seizure then the trial of the cause shall be proceeded with as if no such warrant of attachment had been issued, and after judgment execution shall forthwith issue unless otherwise ordered by the Judge. R. S. O. 1877, c. 47, s. 202.

If summoned personally.

262. Subject to the provisions contained in sections 14 and 16 of *The Act respecting Absconding Debtors*, in order to proceed in the recovery of any debt due by the person against whose property an attachment issues, where process has not been previously served, the same may be served either personally or by leaving a copy at the last place of abode, trade or dealing of the defendant, with any person there dwelling, or by leaving the same at the said dwelling, if no person be there found; and in every case, all subsequent proceedings shall be conducted according to the usual course of practice in the Division Courts; and if it appears to the satisfaction of the Judge on the trial, upon affidavit, or other sufficient proof, that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the Judge shall order that no costs be allowed to the creditor or plaintiff, and no costs in such case shall be recovered in the cause. R. S. O. 1877, c. 47, s. 203.

Proceedings against debtors where process not previously served.

Rev. Stat. c. 66 ss. 14 and 16.

263. Subject to the provisions contained in sections 14 and 16 of *The Act respecting Absconding Debtors*, in case horses, cattle, sheep or other perishable goods have been taken upon an attachment, the bailiff of the court who has the custody or keeping thereof (the same having been first appraised, in the manner in section 251 of this Act mentioned), may at the request of the plaintiff who sued out the warrant of attachment, expose and sell the same at public auction, to the highest bidder, giving at least eight days' notice at the office of the bailiff of the said court, and at two other public places within his division, of the time and place of the sale, if the articles seized will admit of being so long kept, otherwise he may sell the same at his discretion. R. S. O. 1877, c. 47, s. 204; 49 V. c. 15, s. 15.

Perishable goods, how disposed of.

Rev. Stat. c. 66, ss. 14 and 16.

264. It shall not be compulsory upon the bailiff or constable to seize, or upon the bailiff to sell such perishable goods, until the party who sued out the warrant of attachment has given a bond to the defendant therein, with good and sufficient

Creditor to give bond to indemnify the defendant.

sureties in double the amount of the appraised value of the goods, conditioned that the party directing the seizure and sale will repay the value thereof, together with all costs and damages incurred in consequence of the seizure and sale, in case judgment be not obtained for the party who sued out such attachment, and the bond shall be filed with the papers in the cause. R. S. O. 1877, c. 47, s. 205; 49 V. c. 15, s. 15.

Residue, how
disposed of.

265. The moneys so made shall be by the bailiff paid over to the clerk, and the residue, if any, after satisfying such judgments, with the costs thereupon, shall be delivered to the defendant or his agent, or to any person in whose custody the goods were found; and the responsibility of the clerk in respect of such property shall cease. 49 V. c. 15, s. 16.

Bond may be
sued in the Di-
vision Court.
Judge may
deliver up
bond.

266. A bond given in the course of any proceeding under this Act may be sued in any Division Court of the county wherein the same was executed, and proceedings may be thereupon carried on to judgment and execution in such court, notwithstanding the penalty contained in the bond may exceed the sum of \$100. R. S. O. 1877, c. 47, s. 207.

267. Every such bond shall be delivered up to the party entitled to the same, by the order and at the discretion of the Judge of the court, to be enforced or cancelled, as the case may require. R. S. O. 1877, c. 47, s. 208.

CLAIMS OF LANDLORDS AND OTHERS IN RESPECT TO GOODS SEIZED.

Interpretation
of the words
"Landlord,"

268.—(1) In the next six sections, the word "landlord" shall include the person entitled to the immediate reversion of the land, or, if the property be held in joint tenancy, coparcenary or tenancy in common, shall include any one of the persons entitled to the reversion; and

"Agent."

(2) The word "agent" shall mean any person usually employed by the landlord in the letting of lands or in the collection of the rents thereof, or specially authorized to act in any particular matter by writing under the hand of the landlord. R. S. O. 1877, c. 47, s. 209.

Claims of
landlords, etc.,
to goods seized
in execution,
how to be
adjusted.

269.—(1) In case a claim be made to or in respect of any goods or chattels, property or security, taken in execution or attached under the process of a Division Court, or in respect of the proceeds or value thereof; by a landlord for rent, or by a person not being the party against whom the process issued, then, subject to the provisions of *The Act respecting Absconding Debtors*, the clerk of the court, upon application of the officer charged with the execution of the process, may, whether before or after the action has been brought against such officer, issue a summons calling before the court out of which the process

Rev. Stat.
c. 66.

issued, or before the court holden for the division in which the seizure under the process was made, as well the party who issued the process as the party making the claim, and there-upon any action which has been brought in the High Court or in a local or inferior Court in respect of the claim, shall be stayed.

When actions respecting the subject matter may be stayed.

(2) The Court in which the action has been brought, or a Judge thereof, on proof of the issue of the summons, and that the goods and chattels or property or security were so taken in execution or upon attachment, may order the party bringing the action to pay the costs of all proceedings had upon the action after the issue of the summons out of the Division Court. R. S. O. 1877, c. 47, s. 210 (1, 2.)

(3) The County Judge having jurisdiction in such Division Court shall adjudicate upon the claim, and make such order between the parties in respect thereof, and of the costs of the proceedings, as to him seems fit; and shall also adjudicate between the parties, or either of them, and the officer or bailiff in respect of any damage or claim of or to damages arising or capable of arising out of the execution of the process by the officer or bailiff, and make such order in respect thereof, and of the costs of any proceedings as to the Judge shall seem fit; and the order shall be enforced in like manner as an order made in an action brought in the Division Court, and shall be final and conclusive between the parties and as between them and the officer or bailiff, except that upon the application of either the attaching or execution creditor or the claimant, or the officer or bailiff, within fourteen days after the trial, the Judge may grant a new trial upon good grounds shewn, as in other cases under this Act, upon such terms as he thinks reasonable, and may in the meantime stay proceedings. 48 V. c. 14, s. 6.

County Judge to adjudicate on claims.

(4) In case the bailiff has more than one execution or attachment at the suit or instance of different persons against the same property claimed as aforesaid, it shall not be necessary for the bailiff to make a separate application on each execution or attachment; but he may use the names of such execution or attaching creditors collectively in such application, and the summons may issue in the name of the creditors as plaintiffs. 49 V. c. 15, s. 17.

(5) Under the provisions of sub-section 3 the Judge shall have power to adjudicate upon and award damages, even though the amount of the damages claimed, found or awarded should be beyond the jurisdiction of a Division Court.

Power to award damages.

(6) In respect of any damages claimed, or of any judgment, order or finding under the provisions of sub-sections 3 and 5 the parties and the bailiff applying, shall have the same rights of defence and counter-claim, including in all cases the right and liability to costs, as would exist had an action, within the jurisdiction of the Division Court, been brought to recover the said damages. 48 V. c. 14, s. 7.

Provisions in relation to rents due to landlords.

8 Anne, c. 14.

270. So much of the Act passed in the eighth year of the reign of Queen Anne, intituled *An Act for the better security of Rents and to prevent Frauds committed by Tenants*, as relates to the liability of goods taken by virtue of any execution, shall not be deemed to apply to goods taken in execution under the process of any Division Court, but the landlord of a tenement in which any such goods are so taken may, by writing under his hand or under the hand of his agent, stating the terms of holding and the rent payable for the same, and delivered to the bailiff making the levy, claim any rent in arrear then due to him, not exceeding the rent of four weeks when the tenement has been let by the week, and not exceeding the rent accruing due in two terms of payment where the tenement has been let for any other term less than a year, and not exceeding in any case the rent accruing due in one year. R. S. O. 1877, c. 47, s. 211.

How the bailiff is to proceed.

271. In case of any such claim being so made, the bailiff making the levy shall distrain as well for the amount of the rent claimed, and the costs of the additional distress, as for the amount of money and costs for which the warrant of execution has issued, and shall not sell the same, or any part thereof, until after the end of eight days at least next following after the distress made. R. S. O. 1877, c. 47, s. 212.

Fees of bailiff in such cases.

Rev. Stat. c. 63.

272. For every additional distress for rent in arrear, the bailiff of the court shall be entitled to have as the costs of the distress, instead of the fees allowed by this Act, the fees allowed by *The Act respecting Costs of Distress*. R. S. O. 1877, c. 47, s. 213.

If replevin made.

273. If a replevin is made of the goods distrained, so much of the goods taken under the warrant of execution shall be sold as will satisfy the money and costs for which the warrant issued, and the costs of the sale, and the surplus of the sale and the goods so distrained, shall be returned as in other cases of distress for rent and replevin thereof. R. S. O. 1877, c. 47, s. 214.

When landlord's claim to rent is to be first paid.

274. No execution creditor under this Act shall have his debt satisfied out of the proceeds of the execution and distress, or of the execution only, where the tenant replevies, until the landlord who conforms to the provisions of this Act has been paid the rent in arrear for the periods hereinbefore mentioned. R. S. O. 1877, c. 47, s. 215.

OFFENCES AND PENALTIES.

Contempt of Court.

Contempt of court.

275. If a person wilfully insults the Judge or acting Judge or any officer of a Division Court during his sitting or

attendance in court, or interrupts the proceedings of the court, any bailiff or officer of the court may, by order of the Judge, take the offender into custody, and the Judge may impose upon the offender a fine not exceeding \$20, and in default of immediate payment thereof, the Judge may by warrant under his hand and seal commit the offender to the common gaol of the county for a period not exceeding one month, unless the fine and costs, with the expense attending the commitment, are sooner paid. R. S. O. 1877, c. 47, s. 217.

Resisting Officers.

276. If any officer or bailiff (or his deputy or assistant) be assaulted while in the execution of his duty, or if any rescue be made or attempted to be made of any property seized under a process of the court, the person so offending shall be liable to a fine not exceeding \$20, to be recovered by order of the court, or before a Justice of the Peace of the county or city, and to be imprisoned for any term not exceeding three months, and the bailiff of the court, or any peace officer, may in any such case take the offender into custody (with or without warrant) and bring him before such court or Justice accordingly. C. S. T. C. c. 19, s. 184. Assaulting bailiff.

Misconduct of Clerks, Bailiffs, Etc.

277. If a bailiff or officer, acting under colour or pretence of process of the court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the Judge, at a sitting of the court, if a party aggrieved thinks fit to complain to him in writing, may enquire into the matter in a summary way, and for that purpose he may summon and enforce the attendance of all necessary parties and witnesses, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received, and for the payment of any such damages and costs to the parties aggrieved, as he thinks just; and in default of payment of the money so ordered to be paid by the bailiff or officer within the time in the order specified for the payment thereof, the Judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress (or summarily in the first instance), may commit the offender to the common gaol of the county for a period not exceeding three months. R. S. O. 1877, c. 47, s. 218. Misconduct of clerks and bailiffs.

Extortion.

278. If a clerk, bailiff or other officer exacts or takes any fee or reward other than the fees appointed and allowed by law Extortion.

for or on account of anything done by virtue of his office, or on any account relative to the execution of this Act, he shall, upon proof thereof before the court, be forever incapable of being employed in a Division Court in any office of profit or emolument, and shall also be liable in damages to the party aggrieved. R. S. O. 1877, c. 47, s. 219.

Negligence of Bailiffs.

If bailiffs neglect their duty in relation to execution.

279. In case a bailiff employed to levy an execution against goods and chattels, by neglect, connivance or omission, loses the opportunity of so doing, then upon complaint of the party thereby aggrieved, and upon proof of the fact alleged to the satisfaction of the court, the Judge shall order the bailiff to pay such damages as it appears the plaintiff has sustained, not exceeding the sum for which the execution issued, and the bailiff shall be liable thereto; and upon demand made thereof and on his refusal to satisfy the same, payment shall be enforced by such means as are provided for enforcing judgments recovered in the court. R. S. O. 1877, c. 47, s. 220.

Action against bailiff and sureties for neglect of bailiff in returning execution.

280. If a bailiff neglects to return an execution within three days after the return day thereof, or makes a false return thereto, the party who sued out the writ may maintain an action in any Court having competent jurisdiction against the bailiff and his sureties on the covenant entered into by them, and shall recover therein the amount for which the execution issued, with interest thereon from the date of the judgment, or such less sum as in the opinion of the Judge or jury the plaintiff under the circumstances is justly entitled to recover. R. S. O. 1877, c. 47, s. 221.

Execution may issue instant, and if bailiff has removed, his sureties nevertheless liable.

281. If a judgment is obtained in the action against the bailiff and his sureties, execution shall immediately issue thereon, and in case of the departure or removal of the bailiff from the limits of the county, the action may be commenced and carried on against his sureties alone, or against any one or more of them. R. S. O. 1877, c. 47, s. 222.

FINES, HOW ENFORCED.

Fines, how enforced by Division Courts.

282. In case a Division Court imposes a fine under authority of this Act, the same may be enforced upon the order of the Judge, in like manner as a judgment for any sum adjudged therein, and shall be accounted for as herein provided. R. S. O. 1877, c. 47, s. 223.

How enforced by Justices of the Peace.

283. In all cases in which by this Act a penalty or forfeiture is made recoverable before a Justice of the Peace, such Justice may, with or without information in writing, summon

before him the party complained against, and thereupon hear and determine the matter of the complaint, and on proof of the offence convict the offender, and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same. R. S. O. 1877, c. 47, s. 224.

284. In all cases where a conviction is had for any offence committed against this Act, the form of conviction may be in the words or to the effect following, that is to say : Form of conviction.

Be it remembered, that on this day of in the year
of our Lord , A. B. is convicted before
one (or two as the case may be) of Her Majesty's Justices of the Peace for
the County of (or before , a County Judge of
the County of), acting under *The Division Courts Act*, of having
(note the offence) : and I, (or we) , the said do
adjudge the said to forfeit and pay for the same the sum of
 , or to be committed to the Common Gaol of the County of
for the space of

Given under hand and seal, the day and year afore-
said.

R. S. O. 1877, c. 47, s. 225.

PROTECTION OF PERSONS ACTING UNDER WARRANTS, ETC.

285. No action shall be brought against the bailiff of a Division Court, or against any person acting by his order and in his aid, for anything done in obedience to any warrant under the hand of the clerk and seal of the court until a written demand, signed by the person intending to bring the action, of the perusal, and a copy of the warrant has by such person, his solicitor or agent, been served upon or left at the residence of the bailiff, and the perusal and copy have been neglected or refused for the space of six days after the demand. R. S. O. 1877, c. 47, s. 226. Demand of perusal and copy of warrant to be made before action.

286. In case, after the demand and compliance therewith by shewing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against the bailiff or other person who acted in his aid for any such cause without making the clerk of the court who signed or sealed the warrant a defendant, then on producing or proving the warrant at the trial, the jury shall give their verdict for the defendant, notwithstanding any defect of jurisdiction or other irregularity in or appearing by the warrant. R. S. O. 1877, c. 47, s. 227. Bailiff entitled to verdict on production of warrant.

287. If an action is brought jointly against the clerk and bailiff, or the person who acted in his aid, then on proof of the warrant the jury shall find for the bailiff or the person who so acted, notwithstanding such defect or irregularity as aforesaid; and if a verdict is given against the clerk, the plaintiff shall recover his costs against him, to be taxed by the proper officer in such manner as to include the costs which the plaintiff is liable to pay to the defendant for whom a verdict has been found. R. S. O. 1877, c. 47, s. 228. If clerk and bailiff joint defendants, bailiff entitled to verdict on producing warrant, and what costs plaintiffs entitled to.

Defendant may plead not guilty by statute.

288. In such action the defendant may plead not guilty entering a note of this Act in the margin, and in such case may thereupon avail himself of the matters of defence herein given. R. S. O. 1877, c. 47, s. 229.

GENERAL PROVISIONS WITH REGARD TO ACTIONS FOR THINGS
DONE UNDER THIS ACT.

Distress not to be deemed unlawful or persons making it trespassers by reason of defect in proceedings.

289. No levy or distress for a sum of money to be levied by virtue of this Act shall be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto, nor shall the person distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage. R. S. O. 1877, c. 47, s. 230.

Not to be trespassers *ab initio*.

Limitation of actions for things done under this Act.

290. Any action or prosecution against any person for anything done in pursuance of this Act shall be commenced within six months after the fact was committed, and shall be laid and tried in the county where the fact was committed, and notice in writing of the action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action. R. S. O. 1877, c. 47, s. 231.

Defendant may tender amends and plead the general issue, etc.

291. If tender of sufficient amends is made before action brought, or if the defendant, after action brought, pays a sufficient sum of money into court with costs, the plaintiff shall not recover, and in such action the defendant may plead not guilty, and give any special matter in evidence under that plea. R. S. O. 1877, c. 47, s. 232. *See also* Cap. 73.

Plaintiff not to have costs where verdict not over ten dollars without certificate.

292. In case an action is brought in any Court of Record in respect of any grievances committed by any clerk, bailiff or officer of a Division Court, under colour or pretence of the process of such court, and the jury upon the trial find no greater damages for the plaintiff than \$10, the plaintiff shall not have costs unless the Judge certifies in writing that the action was fit to be brought in such Court of Record. R. S. O. 1877, c. 47, s. 233.

DISPOSAL OF FINES.

Fines, how disposed of.

293. The moneys arising from any penalty, forfeiture or fine imposed by this Act, not directed to be otherwise applied, shall be paid to the clerk of the court which imposed the same, and shall be paid by him to the County Crown Attorney of the county to be by him paid over to the Provincial Treasurer, and shall form part of the Consolidated Revenue Fund. R. S. O. 1877, c. 47, s. 234.

DISPOSAL OF MONEYS PAID INTO COURT.

294. The Clerk of every Division Court shall, immediately after the receipt of any sum of money whatever for any party to an action, forward, through the post office, to the party entitled to receive the same, a notice, enclosed in an envelope addressed to such party or in the case of a transcript of judgment from another court, then to the clerk who issued the same, at his proper post office address, informing him of the receipt of the money; the notice thus sent shall be prepaid and registered, and the clerk shall obtain, and file among the papers in the action the post office certificate of the registration, and shall deduct the postage and charge for registration from the moneys in his hands, but he shall charge no fee for the notice; the absence from among the papers in the action of the certificate of registration shall be *prima facie* evidence against the clerk that the notice has not been forwarded. 43 V. c. 8, s. 56.

Clerk to mail notice of payment of money.

295. All sums of money which have been paid into court to the use of any party, and which have remained unclaimed for the period of six years after the same were paid into court or to the officers thereof, and all sums of money when this Act takes effect or afterwards in the hands of the clerk or bailiff, paid into court, or to the officers thereof, to the use of any suitor shall, if unclaimed for the period of six years after the same were so paid, form part of the Consolidated Revenue Fund, and be paid over by the clerk or officer holding the same to the County Crown Attorney of his county, to be by him paid over to the Treasurer of the Province, and no person shall be entitled to claim any sum which has remained unclaimed for six years. R. S. O. 1877, c. 47, s. 235.

Unclaimed moneys to be paid over to County Crown Attorney.

296. No time during which the person entitled to claim such sum was an infant or of unsound mind, or out of the Province, shall be taken into account in estimating the six years. R. S. O. 1877, c. 47, s. 236.

Claims of persons under disability not to be prejudiced.

GENERAL RULES AND ORDERS.

297. The existing Board of County Judges with authority to make rules relating to Division Courts shall continue until superseded or revoked by the Lieutenant-Governor; and all Rules and Forms heretofore made relating to Division Courts and in force when this Act takes effect shall, so far as applicable, remain in force until otherwise ordered under the provisions of this Act. R. S. O. 1877, c. 47, s. 237.

Board of Judges and their authority to frame rules continued.

298.—(1) The Lieutenant-Governor may from time to time appoint and authorize five of the County Judges, who shall be styled "The Board of County Judges," to frame General Rules and Forms concerning the practice and proceedings of the Division Courts, and the execution of the process of such etc.

The Lieutenant-Governor may appoint five County Judges to frame rules, etc.

courts, with power also to frame rules and orders in relation to the provisions of this Act, or of any future Act respecting such courts, as to which doubts have arisen or may arise, or as to which there have been or may be conflicting decisions in any of such courts.

Retired Judge may be appointed. (2) The Lieutenant-Governor may appoint any retired County Judge to be one of the members of the Board.

Rules respecting Clerks and Bailiffs. (3) The Board may also from time to time make Rules for the guidance of clerks and bailiffs, and in relation to the duties and services to be performed, and to the fees to be received by them; and may also substitute other fees in lieu of fees payable to clerks and bailiffs under any rule, order or statute.

Amendment of rules. (4) The Board may from time to time alter or amend any rules or orders made for the Division Courts, and may for any Division Court Division, embracing a city or part of a city, establish a lower tariff of fees from that established for County Division Courts. R. S. O. 1877, c. 47, s. 238.

Board to certify rules to the High Court to be laid before the Judges. **299.** The Board of County Judges or any three of them shall, under their hands, certify to the President of the High Court all Rules and Forms made after this Act takes effect, and the said President shall submit the same to the Judges of the High Court, or to any four of them. R. S. O. 1877, c. 47, s. 239.

Such rules to be approved of by the Judges; **300.** The Judges of the High Court (of whom the President of one of the Divisions shall be one) may approve of, disallow, or amend any such Rules or Forms. R. S. O. 1877, c. 47, s. 240.

And have force of a statute. **301.** The Rules and Forms so approved of shall have the same force and effect as if they had been made and included in this Act. R. S. O. 1877, c. 47, s. 241.

Judges to transmit copies to the Lt.-Governor, etc. **302.** The Judges who make any Rules and Forms approved of as aforesaid shall forward copies thereof to the Lieutenant-Governor, and the Lieutenant-Governor shall lay the same before the Legislative Assembly. R. S. O. 1877, c. 47, s. 242.

Expenses provided for. **303.** The Lieutenant-Governor may, by warrant, direct the Provincial Treasurer to pay, out of the Consolidated Revenue Fund, the contingent expenses connected with the framing, approval and printing of such Rules. R. S. O. 1877, c. 47, s. 243.

Practice of the High Court may be followed in unprovided cases. **304.** In any case not expressly provided for by this Act or by existing Rules, or by Rules made under this Act, the County Judges may, in their discretion, adopt and apply the general principles of practice in the High Court to

actions and proceedings in the Division Courts; provided that nothing herein contained shall be held to authorize the taxation or allowance of costs to any officer of the court, other than those to be found in the tariff of fees as authorized and allowed by the Board of County Judges, under the provisions of this or any other Act. R. S. O. 1877, c. 47, s. 244; 45 V. c. 7, s. 7.

SCHEDULE.

(Section 35.)

COVENANT BY CLERK OR BAILIFF.

Know all men by these presents, that we *J. B.*, Clerk (*or Bailiff as the case may be*) of the Division Court, in the County *S. S.*, of *S. S.*, in the said County of (*Esquire*), and *P. M.*, of *P. M.*,

in the said County of (*Gentleman*) do hereby jointly and severally for ourselves, and for each of our heirs, executors and administrators, covenant and promise that *J. B.*, Clerk (*or Bailiff*) of the said Division Court shall duly pay over to such person or persons entitled to the same, all such moneys as he shall receive by virtue of the said office of Clerk (*or Bailiff*) and shall and will well and faithfully do and perform the duties imposed upon him as such Clerk (*or Bailiff*) by law, and shall not misconduct himself in the said office to the damage of any person being a party in any legal proceeding; nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows, that is to say:

- Against the said *J. B.* in the whole, — dollars.
- Against the said *S. S.* — dollars.
- Against the said *P. M.* — dollars.

In witness whereof, we have to these presents set our hands and seals, this _____ day of _____, in the year of Our Lord one thousand eight hundred and _____

Signed, sealed and delivered, }
in the presence of }

R. S. O. 1877, c. 47, Sched.

5. JURORS AND JURIES.

CHAPTER 52.

An Act respecting Jurors and Juries.

SHORT TITLE, s. 1.	SPECIAL JURIES, ss. 112-119.
INTERPRETATION, s. 2.	Juries of Merchants, etc., ss. 120-126.
QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF JURORS, ss. 3-10.	Costs of Special Juries, ss. 127, 128.
COUNTY SELECTORS, ss. 11-16.	VIEWS, ss. 129-134.
SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL, ss. 17-28.	DUTIES OF SHERIFFS MAY BE PERFORMED BY DEPUTY, s. 135.
PREPARATION OF JURORS' BOOKS, ss. 29-48.	OMISSIONS NOT TO VITIATE VERDICTS, s. 136.
SECOND SELECTION OF JURY LISTS FROM JURORS' BOOKS, ss. 49-61.	NO PERSON TO BE SUMMONED UNLESS ON THE ROLL, s. 137.
SELECTION IN CASE OF SEPARATION OF UNITED COUNTIES, ss. 62-65.	SHERIFFS' AND CORONERS' JURIES, s. 138.
PROCESS FOR RETURN OF PANELS OF JURORS, ss. 66-83.	JURIES, <i>de ventre inspiciendo</i> , s. 139.
DRAFTING PANELS FROM JURY LISTS, ss. 84-94.	FEES OF JURORS, ss. 140-147.
SUMMONING JURORS, ss. 95-99.	FUND FOR PAYMENT OF JURORS, ss. 148-156.
MODE OF DRAFTING BY CORONERS AND SELECTORS, s. 100.	FEES OF SELECTORS, CLERKS OF PEACE AND SHERIFFS, ss. 157-160.
EMPANELLING GRAND JURY, s. 101.	MODE OF PAYMENT, ss. 161, 162.
DRAWING JURORS AT THE TRIAL, ss. 102-106.	OFFENCES AND PENALTIES, ss. 163-174.
ENTRY OF SERVICE, s. 107.	GENERAL PROVISIONS, ss. 175, 176.
CHALLENGES, ss. 108-111.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Jurors' Act.*" 46 V. c. 7, s. 1.

INTERPRETATION.

2. Where the following words occur in this Act or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears.

1. "County," shall include "Unions of Counties" for judicial purposes, and "Township" shall include "Unions of Townships."

2. "High Court," or "High Court of Justice," and all words referring to such court, shall include the High Court of Justice for Ontario, and any Court of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery. "High Court of Justice."

3. A sitting of the High Court shall mean a sitting of the said Court for the trial of civil or criminal cases by a jury, and shall also include a sitting of a Court of Assize, Nisi Prius, Oyer and Terminer or Gaol Delivery. Sitting of High Court. 46 V. c. 7, s. 2.

QUALIFICATIONS, EXEMPTIONS, AND DISQUALIFICATIONS OF JURORS.

3. Unless exempted, every person residing in any county or other local judicial division in Ontario, who is over the age of twenty-one years, and in the possession of his natural faculties, and not infirm or decrepid, and who is assessed as owner or tenant for local purposes upon property, real or personal, belonging to him in his own right, or in that of his wife, of the value of not less than \$600 in cities, and \$400 in towns, incorporated villages, and townships, shall be qualified and liable to serve as a Juror, both on Grand and Petit Juries, in the High Court of Justice for Ontario, and in all Courts of civil or criminal jurisdiction within the county or other local judicial division of the county in which he resides. Qualification. 46 V. c. 7, s. 3.

4. No person enrolled as a Juror, in respect of property of which he was at the time seised or possessed, shall be disqualified or exempted from serving as a Juror, in consequence of his having ceased to be seised or possessed of the property between the time of enrolment and of his being called upon to serve as a Juror, nor shall the same form any ground of challenge to such Juror. Parting with property after assessment not to disqualify. 46 V. c. 7, s. 4.

5. Where property is assessed on the assessment roll of a township, village or ward, as the property of two or more persons jointly, the Selectors of Jurors to whom it belongs to extract from the roll the names thereon of those qualified and liable to serve as Jurors, may, and, if they have the requisite information as to the names of the parties to enable them to do so, shall, in making such extract, and for all the purposes of this Act, treat the property as if it belonged to such persons in equal proportions, and the Selectors shall treat each of such persons, as respects his qualification and liability to serve as a Juror, as if he had been severally assessed for an equal proportion of the property. Joint proprietors to be deemed equally interested. 46 V. c. 7, s. 5.

6. The following persons are hereby absolutely freed and exempted from being returned and from serving as either Grand or Petit Jurors in any Court, and shall not be inserted Persons exempted from serving as Jurors.

in the rolls to be prepared and reported by the Selectors of Jurors as hereinafter mentioned :

1. Every person upwards of sixty years of age ;
2. Every member of the Executive Council of Canada and of this Province ;
3. The Secretaries of the Governor-General and the Lieutenant-Governor ;
4. Every officer and other person in the service of the Governor-General or Lieutenant-Governor for the time being ;
5. Every clerk and servant belonging to the Senate and House of Commons and the Legislative Assembly, or to the Public Departments of Canada or of this Province ;
6. Every officer of the Dominion or Provincial Government ;
7. Every officer of the Post Office, Customs, and Excise ;
8. Every Inspector of Prisons ;
9. The Wardens of the Provincial Penitentiary, the Central Prison and the Reformatory ;
10. Every officer and servant in the said Penitentiary, Central Prison, and Reformatory ;
11. Every Judge of a Court having general jurisdiction throughout Ontario ;
12. Every Judge of any County or other Court (except the General Sessions of the Peace) having jurisdiction throughout any county ;
13. Every Sheriff, Coroner, Gaoler and Keeper of a House of Correction or Lock-up House ;
14. Every Sheriff's Officer and Constable ;
15. Every Priest, Clergyman and Minister of the Gospel recognized by law, to whatever denomination of christians he may belong ;
16. Every member of the Law Society of Upper Canada, actually engaged in the pursuit or practice of his profession, whether as a Barrister or Student ;
17. Every Solicitor of the Supreme Court of Ontario actually practising ;
18. Every officer of any Court of Justice whether of general, county, or other local jurisdiction, actually exercising the duties of his office ;
19. Every Physician, Surgeon, and Apothecary, duly qualified to practise, and being in actual practice ;

20. Every officer in Her Majesty's Army or Navy on full pay ;

21. The officers, non-commissioned officers and men of corps of Volunteers, while they continue such ; and a certificate under the hand of the officer commanding any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption as aforesaid ;

22. Every Pilot and Seaman actually engaged in the pursuit of his calling ;

23. Every County, Township, City, Town, and Village Treasurer and Clerk ;

24. Every Collector and Assessor ;

25. Every Professor, Master and Teacher of any University, College, Collegiate Institute, High School, Public School, or other School or Seminary of learning, actually engaged in performing the duties of such appointment ;

26. Every officer and servant of any University, College, School or Seminary of learning, actually exercising the duty of his office or employment ;

27. Every Editor, Reporter, and Printer of any public newspaper or journal actually engaged in such employment or occupation ;

28. Every person actually employed in the management and working of any Railway ;

29. Every Telegraph Operator ;

30. Every Miller ;

31. Every Fireman belonging to any regular Fire Company who has procured the certificate authorized by section 2 of *The Act to Exempt Firemen from certain Local Services* during the period of his enrolment and continuance in actual duty as such Fireman ; and every Fireman who is entitled and who has received the certificate authorized by sections 5 and 6 of the said last mentioned Act ; but no Fireman shall be exempt from serving as a Juror, unless the captain or other officer of the Fire Company, at least five days before the time appointed for the selection of Jurors, notifies to the Clerk of the Municipality the names of Firemen belonging to his company, residing within the Municipality, who are exempt as aforesaid, and claims exemption for them. R. v. Stat. c. 188. 46 V. c. 7, s. 6.

7. Every member of the Senate and House of Commons and of the Legislative Assembly of this Province, every Warden and every member of any County Council, every Mayor, Reeve, or Deputy Reeve of any city, town, township, or village, every Justice of the Peace, and every other member and officer of any Municipal Corporation, is hereby absolutely Exemptions from serving.

freed and exempted from being selected by the Selectors of Jurors hereinafter mentioned to serve as a Grand or Petit Juror in Her Majesty's Inferior Courts, and none of the names of any such persons shall be inserted in the rolls from which Jurors are to be taken for such purposes, and if any such name be at any time accidentally inserted in any such roll, it shall, if drawn in selecting any jury list or drafting any panel therefrom for such Inferior Courts, be set aside and not inserted therein. 46 V. c. 7, s. 7.

Service at
Division
Courts not to
exempt.

8. Service as a Juror at any Division Court shall not exempt such Juror from serving as a Juror at any other Court, and no person who is by law exempted from serving as a Petit Juror in the High Court shall be compelled to serve as a Juror in any Division Court. 46 V. c. 7, s. 8.

Aliens
disqualified.

9. No man not being a natural-born or naturalized subject of Her Majesty shall be qualified to serve as a Grand or Petit Juror in any of the Courts aforesaid on any occasion whatever. 46 V. c. 7, s. 9.

Attainted per-
sons disquali-
fied.

10. No man attainted of any treason or felony, or convicted of any crime that is infamous, unless he has obtained a free pardon, and no man who is under outlawry, shall be qualified to serve as a Grand or Petit Juror in any of the said Courts on any occasion whatever. 46 V. c. 7, s. 10.

County Selec-
tors.

11. The Senior Judge of the County Court, the Junior Judge thereof, the Mayor of any city situate in any such county, the Warden, the Treasurer, the Sheriff, or in his absence the Deputy Sheriff of the county, any three of whom shall be a quorum, shall be *ex-officio* Selectors of Jurors, from the Jurors' Rolls within their respective counties, and may be known as "County Selectors." In case of an equality of votes, amongst the Selectors present upon any question which may arise, the County Judge, if present, or in his absence the Junior Judge, shall have a double or casting vote in the decision of the question. 46 V. c. 7, s. 11.

County Clerk
a Selector,
when.

12. When the county treasurer is a practising barrister, or solicitor he shall be disqualified from acting as a County Selector, and in such case the clerk of the county council shall be a County Selector in his place and stead; and if the clerk of the county council be a practising barrister, or solicitor he shall in like manner be disqualified, and the clerk of the county court shall be a County Selector in the place and stead of the person or persons so disqualified. 46 V. c. 7, s. 12.

Annual meet-
ing of County
Selectors.

13. The County Selectors for each county shall assemble annually at the office of the Clerk of the Peace, or in the County Court House, on the 15th day of September, or if such day be a Sunday or statutory holiday, then on the first day

thereafter, not being such holiday, for the purpose of determining the number of Jurors both Grand and Petit, and for the High Court and Inferior Courts respectively, which shall be returned by the townships, villages, and urban wards as the case may be, to the Clerk of the Peace, for service as Jurors during the ensuing year, and the Clerk of the Peace shall attend the meeting of such Selectors, and, in a book to be kept for the purpose, shall enter their proceedings and resolutions; but he shall have no voice in the selection of Jurors, and shall in no case advise or express an opinion whether any name ought to be placed upon or omitted from the Jury list. 46 V. c. 7, s. 13.

14. The County Selectors shall at such meeting, by resolution, first determine and declare the number of Jurors, both Grand and Petit respectively, that will be required as Jury panels for service at the several sessions of the Courts during the ensuing year, and shall fix the total number of names of Jurors, Grand and Petit, respectively, and for the High Court and Inferior Courts respectively, which the local municipalities shall return at three times the number declared by the resolution to be required. 46 V. c. 7, s. 14.

Determina-
tion of num-
ber of Jurors
for the year.

15. The County Selectors shall then, by resolution, determine the number of names of the Grand and Petit Jurors respectively, for the High Court and Inferior Courts respectively, to be returned for each township, village, and urban ward in the county, and the number of names of persons on the Voters' List of each municipality, marked as qualified to serve on juries, shall form an approximate basis for such division; and the Clerk of the Peace shall preserve, and at such meeting produce for the use of the County Selectors, the Voters' Lists, delivered to him by the clerks of the several municipalities under the provisions of the *Voters' Lists Act*, or duly certified copies of such lists. 46 V. c. 7, s. 15.

Determina-
tion of number
of Jurors from
each Municipi-
pality.

Rev. Stat.
c. 8.

16. The Clerk of the Peace shall within five days after the meeting of the County Selectors, notify in writing the clerk of each local municipality in the county, of the number of names of Grand and Petit Jurors respectively, required to be returned from the municipality for which he is clerk, and in the case of cities and towns for each ward of such city or town for service in the High Court and Inferior Courts respectively. 46 V. c. 7, s. 16.

Clerk of the
Peace to notify
Clerks of
local Municipi-
palities.

SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL.

17. The mayor or reeve, the city, town, village or township clerk, and the assessor, or assessors if there be more than one, of the respective cities, towns, villages and townships in Ontario, shall be *ex officio* the first Selectors of Jurors for every township and village and for each ward of every such city or town. 46 V. c. 7, s. 17.

Certain muni-
cipal function-
aries to be
selectors of
jurors.

When and where the selection shall be made.

18. The Selectors shall assemble annually on the tenth day of October, or if that day be a Sunday or a statutory holiday, then on the first day thereafter not being such holiday, at the place where the meetings of the municipal council of such city, town, village or township are usually held, or at such other place within the municipality as may for that purpose be appointed by the head of such municipal corporation, or during his absence, or the vacancy of the office, by the clerk thereof, for the purpose of selecting from the assessment rolls of such city, town, village or township the names of the persons qualified and liable to serve as Jurors under this Act. 46 V. c. 7, s. 18.

Principles by which the Selectors are to be governed

19. The Selectors shall select such persons as in the opinion of the Selectors, or of a majority of them, are from the integrity of their characters, the soundness of their judgments and the extent of their information, the most discreet and competent for the performance of the duties of Jurors. 46 V. c. 7, s. 19.

Assessment rolls to be produced.

20. The city, town, village or township clerk, or the assessor or assessors, or the other officer or person who has the actual charge or custody of the assessment roll for any city, town, village or township for the year, shall, at the time aforesaid, bring such assessment roll to the annual meeting of the Selectors of Jurors for such city, town, village or township, and permit the use of the same for the purpose aforesaid. 46 V. c. 7, s. 20.

Meeting of selectors.

21. The Selectors shall annually, on the said tenth day of October, or if they have been unable to complete the duty hereby imposed upon them on such day, then on the first day next thereafter not being a Sunday or a statutory holiday, proceed to select the names from the rolls, and shall, before entering upon the performance of their duties, severally make and subscribe an oath or affirmation in the form following:

Selectors to be sworn.

The oath.

"I, A. B., do swear (or affirm, as the case may be) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a Selector of Jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as Jurors for the year of Our Lord 18... ; So help me God.

"Sworn (or affirmed) before me, at _____, the _____ day of _____ 18____."
 (Signed) C. D.,
 J. P., (Signed) A. B.

which oath or affirmation any Justice of the Peace may (within his jurisdiction) administer. 46 V. c. 7, s. 21.

Manner in which Municipal Selectors to make list from which to select Jurors.

22.—(1) The Selectors for every municipality shall, from the certified voters' list for the municipality for the year, if the list has been certified, or if the same has not been certified, then from the list for the year published by the clerk of the

municipality, or if no such list has been published, then from the last certified list, or if there is no certified list for the municipality then from the assessment roll, write down on one or more sheets of paper, provided for that purpose, twice as many names of persons appearing by the assessment roll to be possessed of the requisite property qualification and otherwise duly qualified to serve on juries, as have been required by the County Selectors to be selected and returned from the township, village or urban wards of the municipality; and the proper assessment roll shall in all cases be referred to by the Selectors for the purpose of determining who are exempt or disqualified from acting as Jurors, and for such other purposes as are necessary in the discharge of their duty as Selectors.

(2) The clerk of the municipality shall, for the purposes of this section, bring with him and produce to the Selectors the proper voters' list and assessment roll.

Clerk to produce voters' list and assessment-roll.

(3) The Selectors for every municipality respectively shall from year to year in making the selection, proceed from letter to letter in alphabetical order, and shall write down the names consecutively in alphabetical order of all those persons qualified to serve on juries and not exempt by law, until twice the total number required to be returned from the municipality of persons duly qualified shall be obtained; and at each subsequent annual meeting the Selectors for the municipality shall begin at the letter next to that at which they left off the preceding year, and so on in alphabetical order, until they shall have gone through all the remaining letters of the alphabet, when they shall again begin with the letter A.

Selection to be made in alphabetical order.

(4) In the event of the Selectors obtaining the names of a sufficient number of duly qualified persons after they have entered upon, but not before they have exhausted the entire number of those qualified under any one letter, they shall at the next annual selection commence at the beginning of such letter, but shall not select from the names of any persons that were written down and selected from and returned the preceding year. The Selectors shall select at least two-thirds of the persons whose names they have so written down, namely the two-thirds thereof in their opinion the best qualified to serve on juries, and shall place a number opposite each name of the said two-thirds so selected. 46 V. c. 7, s. 22.

Procedure when number qualified under one letter not exhausted.

23. In order to facilitate the selection of Jurors, the clerk shall, in making out the voters' list, in the column containing the number of the voter on the roll, or in a separate column provided for the purpose beside the same, write or mark the letter J upon the voters' list opposite the name of every male person over twenty-one and under sixty years of age who, by the roll, appears to possess the property qualification requisite to qualify him to serve as a Juror; and such voters' list shall shew, at or near the end thereof, the aggregate

Voters' lists to shew persons qualified to serve as Jurors.

number of names of persons upon such list qualified to serve on Juries, and in the case of cities and towns the said list shall give the same information for each ward, and it shall not be necessary for the Selectors to refer to any name on the assessment roll which has not the letter J opposite it in the voters' list, unless the Selectors suspect that some names are not properly marked. 46 V. c. 7, s. 23; 48 V. c. 13, s. 15 (1).

In case of an equality of votes among the Selectors, who to have the casting vote.

24. In case of an equality of votes amongst the Selectors as to any one or more of the names to be so selected, or as to the division of the report of the Selectors in which any such name shall be inserted in the distribution of such names as hereinafter provided, or as to any other incidental question which may arise, the mayor or town reeve, or, in the case of his absence or the vacancy of the office, the city, town, village or township clerk, or in the absence or vacancy of the offices of both, then the assessor whose roll for the year contains the greatest number of assessed names, and in the case of joint assessors, the assessor first named in the appointment of such assessors, shall have a casting or double vote in the decision of the question. 46 V. c. 7, s. 24.

Jurors to be selected by ballot.

25.—(1) The Selectors shall then prepare a set of ballots, on pieces of parchment or paper of uniform and convenient size, containing the same number of ballots as there are names selected, allowing one name to each ballot, and such ballot shall be numbered to correspond with the numbers opposite the names of the two-thirds selected, and the Selectors shall then proceed to ballot for Jurors, the number required to be selected from such municipality by the County Selectors.

Record to be kept by Clerk of Municipality.

(2) The clerk of the municipality shall, in a book to be kept for that purpose, enter the dates of the meetings of such Selectors for the municipalities, the persons present thereat and taking part therein, and the letters of the alphabet from which the selections of names of persons are from year to year made, and when the names in any letter have not been exhausted in any one year, the clerk of the municipality shall enter in such book the names and additions of all persons whose names begin with the last mentioned letter that were written down and selected from and returned during the then current year.

Manner of balloting.

(3) The manner of balloting shall be as follows :

(a) The Selectors, or one of them, shall place the ballots, correctly numbered, promiscuously in a box or urn, to be by them procured for that purpose, and shall cause the box or urn to be shaken so as sufficiently to mix the ballots, and shall then openly draw from the said box or urn indiscriminately, one of the ballots, and declare openly the number on such ballot, whereupon the clerk, or one of the Selectors present, shall immediately declare aloud the name of the person opposite

whose name the corresponding number is placed on the list ;

- (b) And thereupon the name and addition of the person whose name has been so selected, shall be written down on a sheet of paper provided for that purpose ;
- (c) Which being done, the Selectors shall proceed in like manner to ballot and dispose of other numbers from the said box, or urn, until the necessary number has been completed. 46 V. c. 7, s. 25.

26. The Selectors having made such selection and ballot shall, for the purpose of the report thereof, distribute the names of the persons so balloted into four divisions ; the first consisting of persons to serve as Grand Jurors in the High Court ; the second, of persons to serve as Grand Jurors in the Inferior Courts ; the third, of persons to serve as Petit Jurors in the High Court ; and the fourth, of persons to serve as Petit Jurors in the Inferior Courts, and shall make such distribution according to the best of their judgment with a view to the relative competency of the parties to discharge the duties required of them respectively. 46 V. c. 7, s. 26.

27.—(1) The Selectors shall make the distribution among the four divisions, so that each division shall contain the number of names required by the County Selectors to be returned for such division, from the township, village, or urban ward respectively.

(2) The Selectors shall make out and return to the Clerk of the Peace the names of the persons so selected in alphabetical order. 46 V. c. 7, s. 27.

28.—(1) The said Selectors of Jurors respectively shall thereupon make out in duplicate under their hands and seals, or under the hands and seals of such of them as perform the duty, a report of their selection, ballot and distribution for the township or village or urban ward, as the case may be, which report shall be as nearly as may be in the form given in Schedule A, appended to this Act, and be filled up agreeably to the directions contained in the notes to such form.

(2) There shall be subjoined to each duplicate report a written declaration, subscribed by the Selectors respectively, stating, each for himself, that he had made the selection, ballot and distribution to the best of his judgment and information pursuant to this Act, and without fear, favour or affection of, to, or for any person or persons whomsoever, gain, reward or hope thereof, other than such fees as they are lawfully entitled to receive for the same under the authority of this Act.

(3) One of such duplicate reports shall, on or before the 25th day of October, be deposited by such Selectors with the Clerk of the Peace for the county in which the town, village or town-

Jurors to be distributed into four divisions.

Selectors to make distribution among the four divisions.

Names to be returned to Clerk of Peace.

Selectors to make out a duplicate report, etc.

Declaration to be subjoined to the report.

Reports to be deposited with certain officers.

ship lies, or within the limits of which such city is embraced ; and the other duplicate with the city, town or village or township clerk, as the case may be.

Who shall keep the same on file.

(4) Such clerks respectively shall keep such duplicate reports on file in their respective offices for the use and information of all who may have lawful occasion to examine or make use of the same.

In case of loss, a copy of the duplicate report to be filed.

(5) In case of the loss or destruction of any duplicate original Selectors' report, the officer in whose office the same was when so lost or destroyed, shall, as soon as reasonably may be, procure from the officer to whom the legal custody of the other duplicate original of such report belongs, a certified copy of such duplicate report, and shall file the same in his office in lieu of the duplicate original, and such certified copy shall be thenceforth taken, received and acted upon in all respects as if it were the duplicate original report so lost or destroyed. 46 V. c. 7, s. 28.

PREPARATION OF JURORS' BOOKS.

Clerk of the Peace to prepare Jurors' books in form of schedule B ;

29. The Clerk of the Peace for every county shall annually procure a book and keep the same as nearly as may be in the form of Schedule B to this Act, and agreeably to the directions contained in the notes to such Schedule, and such book shall be called "The Jurors' Book," for the county of which he is such clerk, and the year for which such book is to be used, as hereafter provided, shall be inserted therein. 46 V. c. 7, s. 29.

In which shall be entered the names of Grand and Petit Jurors ;

30. From the reports of the first Selectors of Jurors for the different townships, villages and urban wards, or other like local divisions of the county, so made to the several Clerks of the Peace for such year, or from such of them as may have been so made to them respectively, on or before the 25th day of October, in such year, each clerk shall between the 25th day of October and the 10th day of November in such year, transcribe into the Jurors' Book aforesaid, in alphabetical order, the names and additions of all persons selected to serve as Grand or Petit Jurors, as the same are set forth and distributed in such reports. 46 V. c. 7, s. 30.

Such books to contain four Rolls of Jurors.

31. Such names shall be transcribed into the book in four Rolls ; the first to be called, "Roll of Grand Jurors to serve in Her Majesty's High Court of Justice," the second, "Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction," the third, "Roll of Petit Jurors to serve in Her Majesty's High Court of Justice," and the fourth, "Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal or Civil Jurisdiction." 46 V. c. 7, s. 31.

Names and additions of Jurors.

32. In each of the rolls shall be transcribed the names and additions of all persons by the Selectors selected, balloted

and reported as aforesaid to serve as Jurors in each respective county. 46 V. c. 7, s. 32.

33. The Clerk of the Peace shall, on or before the 31st day of December, cause a correct copy of such Jurors' Book, certified by him to be a true copy of the original, to be made and deposited in the office of the Registrar of the Queen's Bench Division of the High Court, in the county of York, and in other counties, in the office of the Deputy Clerk of the Crown and Pleas, or of the Local Registrar of the High Court in the county, as the case may be, and from it, in the event of the loss or destruction of the original by fire or other accident, a duplicate original of such Jurors' Book shall be made, and being certified by the said Registrar, Deputy Clerk or Local Registrar, to be truly copied from the copy deposited in his office, shall, upon such loss or destruction being established upon oath or affirmation before two or more Justices of the Peace of the county, be received and used on all occasions and for all purposes, as the original so lost or destroyed. 46 V. c. 7, s. 33.

Certified Jurors' Book to be deposited with Registrar Q.B. Div. in Co. York, and in other Counties with Clerk or Registrar.

34. In case of the destruction of an original Jurors' Book, the Clerk of the Peace for the county shall, as soon as reasonably may be, procure a duplicate original thereof, certified as aforesaid, and deposit the same in his office as above provided. 46 V. c. 7, s. 34.

When copies therefrom to be procured and used.

35. In such case the Clerk of the Peace shall, as soon as may be after procuring the duplicate original, give to the Sheriff or other officer of the county to whom the return of jury process belongs, notice of such destruction, and of the procurement and deposit of the duplicate original in lieu of the original, and thereupon the Sheriff or officer shall furnish to the Clerk of the Peace copies of all panels of Jurors drafted by the Sheriff or officer from the Jury Lists in the original book; and the Clerk of the Peace shall thereupon enter the panels in the duplicate original Jurors' Book, in like manner as the same were entered in the original Jurors' Book. 46 V. c. 7, s. 35.

Notice to be given to the Sheriff, etc.

36. In every case in which a proclamation issues, disuniting a junior county from a senior county or union of counties to take effect from and after the 1st day of January of the then following year, the Clerk of the Peace for the union of counties of which the junior county is at the time a member, shall procure two of such Jurors' Books, one for the county or counties from which such junior county is to be so disunited, and the other for such junior county itself. 46 V. c. 7, s. 36.

Duty of Clerk of the Peace on dissolution of union of counties.

37. The clerk shall transcribe into the former of such books the names and additions of all persons selected for the different townships, villages and urban wards of the senior county or counties, into the latter of such books, the names and additions

How the Jurors' names shall be arranged in the books.

of all persons selected for the different townships, villages and urban wards of the junior county respectively. 46 V. c. 7, s. 37.

Clerk of the Peace to prepare books, etc.

38. In such case the preparing of the books, the selecting of the Jury Lists, and the performing of all other acts and things required by this Act to be done for such junior county for such following year, shall be done and performed by the Clerk of the Peace and Court of General Sessions of the Peace for such original union of counties, and by the chairman and officers thereof. 46 V. c. 7, s. 38.

Clerk of the Peace of senior county to deliver Jurors' Book to Clerk of the Peace of junior county.

39. In such case as soon as may be after the Jurors' Book for the junior county has been completed and the copies thereof made and deposited in the proper offices, the Clerk of the Peace of the original union of counties shall, on demand thereof, deliver the same to the Clerk of the Peace of the junior county, who shall thereupon give him a receipt for such book. 46 V. c. 7, s. 39.

Treasurer of junior county to pay accounts therefor.

40. Upon the receipt being filed with the treasurer of the junior county, and upon the accounts of the Clerk of the Peace and Crier of the Court of General Sessions of the Peace of such original union of counties for the services thus performed for the junior county being verified by affidavit before a commissioner for taking affidavits for the county or union of counties, the treasurer of the junior county shall pay the amount of such accounts out of the like moneys as hereinafter provided with respect to the payment of similar accounts by the treasurers of other counties, and such payments shall in like manner be allowed in the accounts of the treasurer. 46 V. c. 7, s. 40.

How such Jurors' Rolls are to be divided.

41. The Jurors' Rolls shall each be divided into townships, villages and wards, or other like subdivisions answering to the local divisions of the counties, and of the cities and towns embraced within the limits thereof, and such subdivisions, and also the names within each subdivision respectively, shall be arranged alphabetically, and all the names in each of such Rolls thus arranged, shall be numbered with a series of current numbers from one forward. 46 V. c. 7, s. 41.

How the Rolls are to be certified.

42. To each of such rolls in the Jurors' Book shall be subjoined a certificate from the Clerk of the Peace, who prepared the same, that he has carefully compared such roll with the reports made by the several Selectors of Jurors for the different townships, villages, and wards and other local divisions of the county or union of counties, and the cities and towns embraced within the limits of the same for the year, as such reports remained on file in his office on the 15th day of September in such year, and that the Roll contains a true and correct transcript of the names and additions of all persons so selected and reported to serve as Jurors as aforesaid. 46 V. c. 7, s. 42.

43. The Clerk of the Peace for each county shall, on the first day of the Court of General Sessions of the Peace for the county, held next after the 10th day of November in each year, bring into Court and publicly deliver to the Judge presiding at such Court *sedente curia*, the Jurors' Book so prepared by him as aforesaid for the then next year, together with the Jurors' Books for such and so many of the then next preceding years as may be required for proceeding with the selecting of the Jury Lists as hereinafter directed, and shall thereupon make oath in open Court :

Clerk of the Peace to bring Jurors' Book into General Sessions yearly and make oath—

1. That he has carefully compared the Jurors' Rolls in the first mentioned Jurors' Book with the reports made by the several Selectors of Jurors for the several townships, villages and urban wards within the county, as the same remained on file in his office on the 25th day of October preceding, and that to the best of his knowledge and belief the said Jurors' Rolls contain a true and correct transcript of the names and additions of all persons so selected, balloted and reported by such Selectors of Jurors as aforesaid ;

That he has compared Jurors' Rolls,

2. That the Jurors' Books secondly above mentioned are those remaining on file in his office for the years to which they purport respectively to belong, and that all entries in such last mentioned books were truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth. 46 V. c. 7, s. 43.

That the Jurors' Books are those remaining on file.

44. If the Clerk of the Peace has not been in office during all the time that the Jurors' Books have been on file in the office of the Clerk of the Peace for the county or union of counties, then he shall make oath, in open Court, that all entries in such books made during the time that he has been in office, have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth, and that he has no reason but to believe, and does therefore verily believe, that all other entries made therein prior to his appointment, were in like manner truly and faithfully made therein as aforesaid. 46 V. c. 7, s. 44.

If the Clerk has been changed the oath to be modified.

45. On the first occasion of bringing into Court a Jurors' Book for any county, or union of counties, there being no Jurors' Book for any preceding year for such county or union of counties, the oath to be made by the Clerk of the Peace shall be modified so as to be adapted to such circumstances. 46 V. c. 7, s. 45.

The oath to be modified also when the books are brought in for the first time.

46. If any Clerk of the Peace is unable to make the oath required by section 44 of this Act, as to the entries made in any such Jurors' Books previous to the time of such book coming into his custody, or has reason to suspect that any original entries in any of such books have, after their original completion, been erased, mutilated or altered, he shall in lieu of that part of the oath, make oath that, as to such entries,

If the Clerk for the time being suspects previous errors or fraud, he is to state the same.

he is unable to speak, but that from circumstances which have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or of some parts thereof, or has reason to suspect that some of the original entries in some of the books have been erased, mutilated or altered, as the case may be. 46 V. c. 7, s. 46.

The General Sessions shall inquire into the matter.

47. In every case in which the Clerk of the Peace has made an affidavit in the terms of the last preceding section of this Act, the Court of General Sessions of the Peace shall, immediately after the selection has been completed, either on the same or some subsequent day, examine and enquire, by the oath of such persons as may be informed thereof, into the supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when and for what purpose they were made, and shall punish the parties found to have made the incorrect entries, erasures, mutilations or alterations, by fine or imprisonment in their discretion, and shall cause the incorrect entries, erasures, mutilations or alterations to be rectified, and the books restored to their original state as nearly as may be, according to the best information they have been able to obtain of or concerning the same. 46 V. c. 7, s. 47.

The receipt of the books, etc., to be certified by the Chairman.

48. The Judge presiding at the Court shall thereupon certify under his hand and seal, in such books respectively, the receipt of the books and the oath or affirmation upon which the same have been received, and a remembrance of the same shall, by the proper officer, be also made in the minutes of the Court. 46 V. c. 7, s. 48.

County Selectors to be Selectors of Juries.

49. The County Selectors shall be the Selectors of Jurors from the Jurors' Rolls, within their respective counties. 46 V. c. 7, s. 49.

Court of Sessions may adjourn for selections and Selectors shall attend.

50. The Court of General Sessions may, if necessary, be adjourned from time to time for the selection of Jurors, and the Selectors shall attend for that purpose on the day or days appointed. 46 V. c. 7, s. 50.

Selectors to be sworn.

51.—(1) On the day appointed for the selection, or on the day to which the selection may be adjourned, the Selectors shall attend, and shall, before entering upon the performance of their duties, severally make and subscribe an oath or affirmation in the form following :

The oath.

“I, A. B., do swear (or affirm, *as the case may be*) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a Selector of Jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as Jurors for the year of our Lord 18

So help me God.
“Sworn (or affirmed) before me at
day of , 18

, the

(Signed)

C. D.,

J. P.

(Signed)

A. B.

(2) Any Justice of the Peace may (within his jurisdiction) administer such oath or affirmation; and he shall cause an entry thereof to be forthwith made in the minutes of the Court of General Sessions in the presence of the Judge presiding at the Court. 46 V. c. 7, s. 51.

How administered and recorded.

52. The County Selectors shall by resolution determine the number of Petit Jurors to be drafted and returned to any Sittings of the High Court, General Sessions of the Peace, or County Court, for the current or ensuing year; and it shall be the duty of the Clerk of the Peace forthwith, thereafter, to transmit to the Registrar of the Common Pleas Division of the High Court at Toronto, and to the Clerk of the County Court, a certified copy of such resolution, and such officers shall keep the same on file in their respective offices. 46 V. c. 7, s. 52.

County Selectors to determine the number of Petit Jurors to be drafted and returned to each Court.

53. The County Selectors may amend any of their resolutions, and either increase or decrease the number of Jurors to be selected and returned by the municipalities, the number to be selected by such County Selectors, or the number of Petit Jurors to be drafted and returned to any sittings of the High Court, General Sessions of the Peace, or County Court, and in such case due notice thereof shall be given by the Clerk of the Peace to the proper parties. 46 V. c. 7, s. 53.

Power to amend resolutions.

54.—(1) The last mentioned Selectors of Jurors shall then proceed to select from the Jurors' Rolls the names of the requisite number of persons to serve as Jurors for such year who, in the opinion of the Selectors or of a majority of them, are, from the integrity of their characters, the soundness of their judgment, and the extent of their information, the most discreet and competent for the performance of the duties of Jurors, and in making such selection the Selectors may, if they think fit, select a proportion of the names for each jury list from each local municipality.

Selection of Jurors from Jurors' Rolls.

(2) The Selectors shall first proceed to select the Grand Jury for the High Court, and when they or a majority of them have decided upon the selection of any person named on the Jury Rolls, the names and additions at length of such person shall, by the Clerk of the Peace, be forthwith inserted in the Minute Book of the Court, unless good cause why the same should not be so entered shall be shewn; and in order to determine the question, evidence may be taken by the Selectors upon oath, and in such case a minute of the evidence shall be taken and entered in the Minute Book of the Court.

Clerk of Peace to enter names of Jurors selected.

(3) The names so selected, with the places of residence and additions of the parties alphabetically arranged, shall, by the Clerk of the Peace, be then copied into the Jurors' Book with the title of "The Grand Jury List for the High Court," and such list shall have a series of current numbers from one

Names selected to be inserted in List.

forward, as is hereinbefore provided with respect to the Jurors' Rolls, and also a reference to the number of each name on the Roll of Grand Jurors for the High Court.

Clerk of the Peace to enter names in the book.

(4) Each of such names shall, by the said Clerk of the Peace, be thereupon marked on the last mentioned roll as transferred to such Jury List, by a reference to the number belonging to such name on that list.

List so made to be the Grand Jury List for High Court.

(5) The list, so selected and transferred, shall be the Grand Jury List for the High Court, for the year next after the same has been so selected. 46 V. c. 7, s. 54.

Grand Jury List for Inferior Courts to be made in like manner,

55. After the said Grand Jury List for the High Court has been so selected and transferred as aforesaid, the said Selectors shall in like manner proceed to select and transfer from the Roll of Jurors to serve as Grand Jurors in the said Inferior Courts, to a similar list in the same book, to be called "The Grand Jury List for the Inferior Courts" for such next year, the required number of names; and the last mentioned list, so selected and transferred, shall be the Grand Jury List for the Inferior Courts for the year next after the same has been so selected as aforesaid. 46 V. c. 7, s. 55.

And then lists of Petit Jurors of High Court and Inferior Courts.

56. The Selectors shall in like manner proceed to select and transfer the required number of names from the Roll of Jurors to serve as Petit Jurors in the High Court to the Petit Jury List for the High Court for such year, and lastly from the Roll of Jurors to serve as Petit Jurors in the Inferior Courts to the Petit Jury List for the Inferior Courts for such year. 46 V. c. 7, s. 56.

Number to be selected for Jury List.

57. The number to be selected from the Jurors' Rolls for a Jury List shall be the number of Grand Jurors that the County Selectors have determined to be requisite for the year, and of Petit Jurors for the High Court and Inferior Courts respectively, the number theretofore determined to be requisite as the panels for the year by the County Selectors, with one-fourth the number thereof added thereto. 46 V. c. 7, s. 57.

Selectors may select any Jury List before previous ones transferred to Jurors' book.

58. The Selectors may select all or any of the Jury Lists before the previous ones or all of them have been transferred to the Jurors' Book. 46 V. c. 7, s. 58.

The Chairman and Clerk of the Peace to certify books.

59. So soon as the four Jury Lists have been so selected and transferred, the presiding Judge and Clerk of the Peace shall certify under their hands in the said book, immediately after each of such Jury Lists, that the same was on such a day duly selected from the proper roll in open court, as the law directs; whereupon such Jurors' Book, with the Jury Lists so certified, shall be deposited with the Clerk of the Peace to put upon file in his office. 46 V. c. 7, s. 59.

60. All the duties by this Act required of the Judge presiding at the General Sessions of the Peace, shall and may in his absence be performed by any Justice elected by the Justices present to preside as chairman *pro tempore*. 46 V. c. 7, s. 60.

If Chairman absent, presiding Justice to act.

61. In case from any cause such Jury Lists or either of them be not selected pursuant to the provisions of this Act, in any county, the Lieutenant-Governor may, by warrant under his Privy Seal, of which a copy shall be published in the *Ontario Gazette* of the Province, and also (if there be such) in one public newspaper published in the county, as the case may be, fix a day not sooner than fourteen days from the publication of the warrant in the *Ontario Gazette*, and also a place in the county for holding a special sittings of the Court of General Sessions of the Peace for the purpose of selecting the Jury Lists as hereinbefore directed; and the several provisions and clauses of this Act, relating to the sittings of the Court, in presence of which the selection of the Jury Lists is hereinbefore directed to be made, shall extend and apply to and be in force with respect to such special sittings. 46 V. c. 7, s. 61.

If the Jury Lists are not made at the time appointed the Lieut.-Gov. may appoint another day for the purpose.

SELECTION IN THE CASE OF A SEPARATION OF UNITED COUNTIES.

62. In cases where the separation of a junior county from a senior county or remaining counties takes place at any other time than upon, from and after the 1st day of January in each year, under the general law applicable to such separations, the Assessment Rolls, the Jurors' Books, the Jurors' Rolls and the Jury Lists, made for the united counties, shall, for the purposes of this Act, so far as the same apply to or contain the names of persons rated for or as resident in the senior county or remaining counties and in the junior county respectively, be the Assessment Rolls, Jurors' Books, Jurors' Rolls, and Jury Lists, for the said respective counties, to all intents and purposes as if the same had been made up by and for such counties respectively. 46 V. c. 7, s. 62.

Assessment Rolls, Jury Books, etc., continue valid for the Counties affected, respectively, after separation.

63. In such cases of separation the Court of General Sessions of the senior county or remaining counties, and of the junior county, may, on the summons of the presiding Judge in case it may be necessary to increase the number of names on the Jurors' Rolls, meet at such time after the separation as may be convenient, and add such names to the Jurors' Rolls as may be considered to be expedient, and the rolls shall be as valid, to all intents and purposes, as if the same had been made at the usual time and in the ordinary manner, under this Act. 46 V. c. 7, s. 63.

Provision for increasing number of names on Rolls if necessary.

64. The Clerk of the Peace for the county which was the senior county before the separation, having the custody of the Jurors' Books, Jurors' Rolls and Jury Lists, shall make and deliver copies of the same respectively, to the Clerk of the

Clerk of the Peace for senior county to furnish copies for junior county.

Penalty for
default.

Peace of the former junior county which has been separated, on demand made for that purpose; such copies shall be certified under the hand of the Clerk of the Peace delivering the same, as true copies of the originals, and be delivered within one week after such demand made, under a penalty of \$200. for the use of Her Majesty, Her heirs and successors. 46 V. c. 7, s. 64.

Charges for
such copies.

65. The Clerk of the Peace so receiving the same shall pay to the Clerk of the Peace so delivering them, the like charges as he is entitled to for the like services performed for his own county and office. 46 V. c. 7, s. 65.

JURY PROCESS.

Judges to issue
precepts to the
Sheriffs.

66.—(1) The Judges, Justices and others, to whom the holding of any sittings of the High Court, General Sessions of the Peace or County Court by law belongs, or some one or more of such Judges, Justices or others, may for that purpose issue precepts to the Sheriff or other proper officer for the return of a competent number of Grand Jurors for cases criminal for such sittings, and of such number of Petit Jurors as the county Selectors of Jurors shall have determined as the number to be drafted and returned for the trial of such issues or other matters of fact in cases criminal and civil as it may be competent to such Petit Jurors to try at such sittings, according to law.

(2) Nothing in this Act contained shall prevent the Judges, Justices or others issuing such precept or precepts, from requiring in and thereby the return of any number of Petit Jurors greater than the number so determined, if in his or their opinion the same may be required, but they shall have, possess and exercise all such rights and powers in that behalf as they had prior to the passing of this Act. 46 V. c. 7, s. 66.

Judge of
County Court
may order
additional
Jurors.

67.—(1) The Judge of the County Court for the county, after the issue of the precept to the Sheriff, may, at any time prior to the day appointed for the sittings of the High Court, if it appears to him expedient, by order under his hand and seal, and the presiding Judge may, at any time before or during the sittings of such Court, by order under his hand and seal, direct the Sheriff to return any additional number of Petit Jurors to such sittings.

(2) And the Judge of the County Court, or Chairman for the time being of the General Sessions of the Peace, after the issue of the precept, may, at any time prior to or during the sittings of the County Court or General Sessions of the Peace, by order under his hand and seal, direct the Sheriff to return an additional number of Petit Jurors to the sittings of such County Court or General Sessions of the Peace.

(3) The Sheriff shall, upon the receipt of any such order, proceed forthwith to draft such additional number of jurors in

the manner provided by this Act, and shall add their names to the panel, and shall forthwith thereafter proceed to summon them. 46 V. c. 7, s. 67.

68. The number of Petit Jurors to be returned on any general precept for the return of Petit Jurors for any sittings of the High Court, General Sessions of the Peace, or County Court shall be the number determined by the County Selectors, unless by the direction of the Judges authorized or appointed to hold such sittings, or one of them, who may by order or precept, under hand and seal, direct that a greater or lesser number shall be the number to be returned, or unless the Judge of the County Court shall as hereinbefore provided otherwise order. 46 V. c. 7, s. 68.

Number of Petit Jurors to be returned.

Judge may order greater or lesser number.

69. It shall be the duty of the Registrar of the Common Pleas Division of the High Court to procure from the Judges of the said Court the several precepts for the return of panels of Grand and Petit Jurors from time to time required for the sittings of the High Court, and to transmit the same to the several Sheriffs or other officers to whom the return of such precepts severally belongs. 46 V. c. 7, s. 69.

Registrar of C. P. Division to procure precepts for return of panels, and transmit to proper officers.

70. Where the day is not fixed by law, he shall procure the precepts as soon as conveniently may be after the commission or other day has been appointed upon which the jurors to be returned upon the precepts are to be summoned to attend; and where the day is fixed by law, then as soon as conveniently may be after the close of the last preceding sittings of the same courts. 46 V. c. 7, s. 70.

Time for procuring precepts.

71. The Sheriff may return the same panels to the precepts for the return of panels of Petit Jurors for the sittings of the Court of General Sessions of the Peace, and for the sittings of the County Court, in all cases where the same day is appointed for holding such respective sittings. 46 V. c. 7, s. 71.

Sheriff may return the same panels to General Sessions and County Courts;

72.—(1) In any county in which any Justice of the Supreme Court of Judicature for Ontario thinks fit so to direct, the Sheriff, to whom the return of the precept for the trial of causes at Nisi Prius for such county belongs, shall empanel and summon such number of Petit Jurors, not exceeding one hundred and forty-four in any county (except the counties of York and Wentworth, or any union of which either of those counties is for the time being the senior county, and in the said counties or unions of counties last mentioned, not exceeding in the county of York three hundred and eighty-four, and in the county of Wentworth two hundred and sixteen), as such Justice may think fit to direct, to serve indiscriminately on the criminal and civil side.

According to the precept;

Within certain limits as to numbers.

Where two sets of Jurors may be summoned.

(2) Where such Justice so directs, the Sheriff shall divide such Jurors equally into two sets, the first of which sets shall consist of the necessary number of those first drawn upon such panel, and such Jurors shall attend and serve for so many days at the beginning of each sittings as such Justice, within a reasonable time before the commencement of such sittings, directs, and the Jurors of the second set shall consist of the residue of such Jurors, and such Jurors shall attend and serve for the residue of the sittings.

Names therein to be designated.

(3) The Sheriff shall in the summons to every Juror, in each of such sets, specify whether the Juror named therein is in the first or second set, and at what time the attendance of such Juror will be required.

When to be drawn from first set and second set.

(4) During the attendance and service of the first of such sets, the Juries on the civil side shall be drawn from the names of persons in that set, and during the attendance and service of the second of such sets, from the names of the persons in such second set.

If a view has been granted.

(5) In case an order for a view has been obtained, in a cause to be tried by a Jury taken from such panel, the Judge before whom such case is to be tried, shall, on the application of the party obtaining the order, appoint that in case the name of any one of the viewers stands in the panel among the first half of the names therein, the names of all the viewers shall by such Sheriff be placed in the first of such sets, and that the case shall be tried during the attendance and service of that set of Jurors. 46 V. c. 7, s. 72.

The High Court may issue writs and precepts as heretofore.

73. The High Court and the Judges thereof shall respectively have the same powers and authority as heretofore in issuing any writ or precept, or in making any award or order orally or otherwise for the return of a Jury for the trial of any issue before any of the Courts, or for the amending or enlarging the panel of Jurors returned for the trial of any such issue; and the return to any such writ, precept, award or order shall be made in the manner heretofore used and accustomed, and the Jurors shall, as heretofore, be returned from the body of the county, and not from any township, or from any particular venue within the county, and shall be qualified according to this Act. 46 V. c. 7, s. 73.

The directions for precepts, etc., at the Assizes to apply also to the General Sessions, etc.;

74. The several directions in this Act contained, respecting the issue of precepts for the return of a panel of Grand Jurors for the sittings of the High Court, as well as for the execution and return of the precepts, with all things touching the same shall in all particulars be observed and followed with respect to the sittings of the General Sessions of the Peace. 46 V. c. 7, s. 75.

And County Courts.

75. The several directions in this Act contained respecting the issue of precepts for the return of a general panel of Petit

Jurors for the sittings of the High Court, as well as for the execution and return of the precepts with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of the several County Courts, except that the number of Petit Jurors to be summoned in the County of York under section 72 shall not exceed two hundred and eighty-eight. 46 V. c. 7, s. 76.

76. The Judges of the County Courts respectively, if required by either plaintiff or defendant in an action where the Sheriff is the opposing party, shall issue a precept to a Coroner of their respective counties, at least fourteen days before the week in which the General Sessions of the Peace are to be holden, requiring him to summon, and he is hereby directed thereupon to summon, the number of Jurors expressed in the precept, to be and appear at the time and place when and where the General Sessions are to be holden, on the same day on which such Sessions are generally holden, from whom a Jury shall be taken for the trial of the issue or the assessment of damages in like manner as practised in cases at Nisi Prius. 46 V. c. 7, s. 77.

If the Sheriff a party, the County Court to issue a precept to the Coroner.

77. Every writ of *venire facias juratores*, where necessary for the trial of any issue, civil or criminal, or on any penal statute, in any of the Courts hereinbefore mentioned, shall direct the Sheriff, or other officer to whom the same is directed, "to return twelve good and lawful men of the body of his county, qualified according to law," and the rest of the writ shall proceed in the accustomed form. 46 V. c. 7, s. 78.

Writs of *venire facias juratores* to direct the return of twelve Jurors.

78. Every precept issued for the return of Jurors for sittings of the High Court, General Sessions of the Peace, or County Court, shall in like manner direct the Sheriff, or other officer to whom the same is directed, "to return a competent number of good and lawful men of the body of his county, qualified according to law," and shall not require the same to be returned from any township, or from any particular *venue* within the county. 46 V. c. 7, s. 79.

What the precept shall express.

79. Except in trials at bar, the writ of *venire facias juratores*, where by law necessary, may be tested on the day on which the same issues and be made returnable on any day in Term or Vacation, and except in trials at bar, the writ of *distringas juratores* and *habeas corpora* may be tested either on the return day of the *venire* or on any subsequent day in Term or Vacation, and as well after as before or on the day appointed for the sittings of the Court at which the cause, in which the same is sued out, is intended to be tried, and any such process may be sued out of the office of the Deputy Clerk of the Crown and Pleas or Local Registrar of the High Court in the proper county, as well as out of the principal office at Toronto. 46 V. c. 7, s. 80.

Teste, etc., of writs for the summoning of Jurors, except in special instances.

Contents of writs of *habeas corpora juratorum*, etc.

80. In a writ of *habeas corpora juratorum* or *distringas* subsequent to and founded upon any writ of *venire facias juratores*, it shall not be requisite to insert the names of all the Jurors contained in the panel, but it shall be sufficient to insert in the mandatory part of such writs respectively—"the bodies of the several persons in the panel to this writ annexed, named," or words of the like import, and to annex to such writs respectively panels containing the same names as were returned on the panel to such *venire facias*, with their places of abode and additions. 46 V. c. 7, s. 81.

Writs of *venire facias juratores*, etc., not necessary at the Assizes, etc.

81.—(1) For the trial of issues in cases, whether criminal or civil, which come on in course for trial at any sittings of the High Court, General Sessions of the Peace, or County Court, it shall not be necessary to sue out any writ of *venire facias juratores* or any other Jury process, but the award of such process by the Court and the entry of such award where necessary on the roll, together with the return of a panel of Jurors upon the general precept issued for such sittings, and the trial of such issues respectively by a Jury taken from such general panel in the manner herein provided, shall be sufficient, and shall be as valid and effectual in law as if such *venire facias juratores*, or other process, had been actually and regularly sued out in each case, and the names of the Jurors had been regularly returned upon such Jury process.

Trials at bar not to be affected.

(2) Nothing in this section contained shall extend to any issue to be tried at bar, or by a Special Jury, or by a Jury *de ventre inspiciendo*, or in a case in which a view has been granted, or to any other case in which it is now necessary to sue out such writ.

Talesmen to be deemed taken from the general panel.

(3) Every Jury of which some of the Jurors have been regularly taken from such general panel shall, notwithstanding its being completed by the award of a *tales de circumstantibus*, be deemed to have been taken from such general panel for the purposes of this section.

When view is granted what Sheriff shall be on the *venire facias juratores*.

(4) To every *venire facias* directed to a Sheriff in a case in which a view has been granted, and which *venire facias* is not endorsed for the return of a Special Jury thereon, such Sheriff shall return the same Jurors as those whose names are inserted in the panel returned upon the general precept for the sittings at which such cause is to be tried. 46 V. c. 7, s. 82.

What to be done if cause not tried at the first Court in which a *venire facias juratores* is returnable.

82. If, when the cause is at issue, any plaintiff or any defendant in *quare impedit* or *replevin* has sued out a writ of *venire facias* upon which a writ of *habeas corpora* or *distringas* with a *nisi prius* has issued in order to the trial of the said issue at the sittings of the High Court, and does not proceed to trial at the first sittings after the teste of such writ of *habeas corpora* or *distringas*, then, (except when a view by Jurors is directed) such plaintiff, or defendant, whenever he intends to

try the issue at any other sittings, shall sue forth a new writ of *venire facias*, commanding the Sheriff or other officer to return anew twelve good and lawful men of the body of the county qualified according to law, and the rest of the writ shall proceed in the accustomed manner, and such writ being duly returned, a writ of *habeas corpora* or *distringas* with a *nisi prius* shall issue thereupon, upon which the plaintiff or defendant may proceed to trial, as effectually to all intents and purposes, as if no former writ of *venire facias* had been prosecuted in that cause, and so *toties quoties* as the case may require. 46 V. c. 7, s. 83.

83. Nothing in this Act contained shall change or alter any privilege of Parliament or of the Provincial Legislature, or shall alter, abridge or affect any power or authority, which any Court or Judge has when this Act takes effect, or any practice or form, in regard to trials by Jury, Jury process, Juries or Jurors, except in those cases only where any such power or authority, practice or form, is repealed or altered, or is inconsistent with any of the provisions hereof. 46 V. c. 7, s. 84.

Former powers of Court and Judges in trials by jury not abridged, unless by express provisions.

DRAFTING PANELS FROM JURY LISTS.

84. Every Sheriff or other officer to whom any writ of *venire facias* or precept for the return of Jurors is directed, shall, to such writ or precept, return a panel of the names of the Jurors contained in the proper Jury List for the year, whose names shall be drafted from such list in the manner hereinafter mentioned. 46 V. c. 7, s. 85.

How Sheriffs to draft panels of Jurors.

85. If there be no Jurors' Book, or certified copy thereof, in existence for the year, the Sheriff may return to any such writ or precept a panel of Jurors selected in like manner from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there is a Jurors' Book, or certified copy thereof, in existence. 46 V. c. 7, s. 86.

If no Jurors' Book for the year.

86. If there be no Jurors, or not a sufficient number of such Jurors upon any Jury List from which a panel is so required to be drafted, liable to be drafted and to serve upon such panel, the Sheriff may return to the writ or precept a panel of jurors selected in like manner, or the residue of whom respectively have been selected in like manner, from the proper Jury List in the Jurors' Book of the nearest preceding year for which there is a Jurors' Book, or certified copy thereof, in existence. 46 V. c. 7, s. 87.

If not a sufficient number on the lists.

87. Upon any Sheriff or other officer being called upon to return a panel of Jurors, whether Grand or Petit, he shall give public written notice in his office, and also on the door of the Court House of the county, or if there be no Court House, then in some other public place, of the day and hour at which he

What notice Sheriffs shall give.

will attend at the office of the Clerk of the Peace to draft such panel of Jurors from the Jury List, and at such time and place he shall proceed publicly to draft the panel by ballot from the Jury List in the presence of the Clerk of the Peace and any two Justices of the Peace of the county, who, upon reasonable notice from the Sheriff, are hereby required to attend, and in the presence of any other person or persons who may desire to be present; and for such services the said Justices shall each receive the sum of \$1 for each of such panels drafted, which sums shall be paid by the treasurer, on receipt of the Sheriff's certificate that such service has been performed. 46 V. c. 7, s. 88.

Amount to be paid Justices of the Peace for each panel.

Notice to be given eight days, if time admits.

88. If the Sheriff or other officer has sufficient time, he shall give every such notice at least eight days before the drafting of the panel, and if there be not sufficient time for that purpose, he shall give such notice as soon after his receipt of the precept or writ as conveniently may be. 46 V. c. 7, s. 89.

The drafting if not completed may be returned.

89. If the drafting or completing of the panel, at the time appointed, be prevented by unavoidable accident, the same may be had or completed at any other time in the presence of the Clerk of the Peace and two Justices of the Peace upon a similar notice being first given of such time. 46 V. c. 7, s. 90.

How Sheriff to prepare a panel.

90. In proceeding to draft a panel of Jurors from the Jury List the Sheriff or other officer to whom the return of the panel belongs, shall in the first place prepare a proper title or heading for the panel of Jurors to be returned, to which he shall fix an appropriate number according as such panel by the Jurors' Book appears to be the 1st, 2nd, 3rd or subsequent panel drafted, from such Jury List, and the title or heading shall set forth the number of Jurors to be returned in words at length, or (where such Sheriff has a discretion as to such number) the number that, in the exercise of such discretion, he has determined to return, and the number when discretionary shall not be altered after the same has been so inserted in such title or heading. 46 V. c. 7, s. 91.

Same subject.

91. In the second place, the Sheriff, or other officer, shall append to such title or heading, a list of numbers from one forward to the number required, and shall prepare a set of ballots or pieces of parchment, card or paper of uniform and convenient size, such set containing the same number of ballots as there are numbers on the Jury List from which the panel is to be drafted, allowing one number to each ballot, which number shall be printed or written on the same, and he shall then proceed to draft the panel of Jurors in the manner hereinafter mentioned. 46 V. c. 7, s. 92.

How panel of jurors to be drafted.

92. The manner of drafting the panel shall be as follows, that is to say:

1. The Sheriff, or other officer to whom the return of the panel belongs, shall place the ballots promiscuously in a box or urn to be procured by him for that purpose, and shall cause such box or urn to be shaken so as sufficiently to mix the ballots, and he shall then openly draw from the said box or urn indiscriminately one of the said ballots, and declare openly the number of such ballot, whereupon the Clerk of the Peace, or one of the Justices of the Peace, present as aforesaid at such drawing shall, immediately declare aloud the name to which such number is appended in the Jury List from which the panel is drafted ;

2. And thereupon, if such person is exempt from being drafted or serving upon such panel, under section 6 of this Act, or if upon the face of such Jury List it appears that the person whose number has been so drafted had previously been drafted to serve on a panel drafted from such Jury List in obedience to a precept for the return of a general panel for any Sittings of the High Court, General Sessions of the Peace, or County Court, and that such person had actually attended and served upon such panel, and if a sufficient number of names to complete the panel, then in course of being drafted, remain on such Jury List without taking any of those who had been previously drafted from the same list upon any former panel, the Sheriff shall publicly announce the same, and that the name of the person so drafted is, on such account, not inserted in the panel ;

3. If upon examination of such Jury List no such cause appears for omitting the name of such person from the panel then being drafted, the name and addition of the person whose name has been so drafted shall be thereupon written down on a sheet of paper provided for that purpose, and such name shall, by the Sheriff, or other officer, be thereupon marked on the said Jury List, with a reference to the number which will belong to such panel in the Jurors' Book ;

4. The Sheriff shall then proceed in like manner to draft and dispose of other numbers from the said box or urn, until the necessary number for the panel to be so drafted has been completed ;

5. The names so drafted, with the places of residence and additions of the parties, arranged alphabetically, shall then, by such Sheriff, or other officer, be transcribed on another sheet of paper, with a reference to the number of each such name respectively on the Jury List, and each such name shall, by the said Sheriff or other officer, or his Deputy, be thereupon marked upon the said Jury List, with a reference to the number which belongs to such name in the panel in the Jurors' Book ;

6. The panel so alphabetically arranged and numbered, with a short statement of the writ or precept in obedience to which it has been drafted, the date and place of such drafting, and

the names of the Sheriff, or other officer or his Deputy, and of the Clerk of the Peace and Justices of the Peace, present at such drafting, or of at least two of them, shall then be fairly entered in the said Jurors' Book, and attested by the signatures of such Sheriff, or other officer or his Deputy, and of the said Clerk of the Peace and the said Justices, or at least two of them. 46 V. c. 7. s. 93.

The panel to be annexed to the writ or precept, and a copy sent to the Registrar of the Common Pleas or to the proper Deputy Clerk of the Crown or Local Registrar.

93. The Sheriff shall, upon his return of the writ of *venire facias*, or precept, under authority of which the panel has been drafted, annex a panel to the said writ or precept, containing the names, together with the places of abode and additions of the persons so drafted upon such panel, and shall transmit one copy thereof to the office of the Clerk of the Peace of the proper county, and another to the Registrar of the Common Pleas Division of the High Court at Toronto, or to the Deputy Clerk of the Crown, or Local Registrar, as the case may be. 46 V. c. 7, s. 94.

Copies, Jurors' Books, etc., to be open to inspection.

94. Each of such copies, as well as the Jurors' Book, shall at all reasonable times be open to inspection by litigants or their professional agents, without fee or reward. 46 V. c. 7, s. 95.

SUMMONING JURORS.

Jurors to be summoned, eight days.

95. The proper officer shall summon every man bound to serve on Grand Juries or on Petit Juries, not being Special Juries, in any of the Courts aforesaid, eight days at least before the day on which the Juror is to attend, by delivering to him, or in case of his absence from the usual place of his abode, by leaving with some grown person there inhabiting, a note in writing under the hand of the Sheriff, or other proper officer, containing the substance of such summons; but when the Sheriff shall be directed to draft and summon additional Jurors under the provisions of this Act, such eight days service shall not be necessary. 46 V. c. 7, s. 96.

Special Jurors to be summoned, three days.

96. The proper officer shall summon every man to serve on Special Juries in any of the Courts aforesaid, in the like manner as aforesaid, three days at the least before the day on which the Special Juror is to attend; which last mentioned day may be upon, or any day after, the first day of the sittings at which the cause is to be tried. 46 V. c. 7, s. 97.

The Judges may make rules for calling on Special Jury cases for trial.

97. The Judges of the different Courts may, by general rules to be made by them for that purpose, make such regulations as they deem expedient for regulating the time and manner of bringing on such special jury trials. 46 V. c. 7, s. 98.

The proper officer to summon Jurors whenever required.

98. The proper officer, notwithstanding anything in this Act contained, shall summon, in the manner heretofore used and accustomed, every person required to serve upon any

inquest or inquiry before a coroner, or before any commissioners appointed under the Great Seal of this Province, or under the Seal of the Supreme Court of Judicature, or under the seal of any Division of the High Court, or to serve as a talesman upon any jury, either for the trial of an issue, or assessment of damages, in any of the Courts aforesaid, or any matron to serve on a jury *de ventre inspiciendo*. 46 V. c. 7, s. 99.

99. Every Sheriff and other officer to whom the return of Jurors belongs, is hereby indemnified for empanelling and returning any person as a Grand or Petit Juror named in or taken from the Grand or Petit Jurors' Rolls for the year in which he has been summoned, although such person may not have been qualified or liable to serve as such Juror for such year. 46 V. c. 7, s. 100.

Sheriff indemnified for returning unqualified persons, if in the Rolls of Jurors.

JURORS, WHEN SUMMONED BY CORONERS, ELISORS, ETC.

100. The manner of drafting and striking, returning and summoning Jurors by the Sheriff upon writs of *venire facias* followed by coroners, elisors, and other officers having the return of jury process, and they shall for such purpose have free access at all reasonable times to the Jurors' Book in the office of the Clerk of the Peace of the proper county: and every Coroner, Elisor, and other officer, shall possess all the powers and perform all the duties in any way connected with the drafting, striking, returning, and summoning such Jurors, as in and by this Act are prescribed to or vested in the Sheriff of the different counties, with respect to Jurors returned by them upon similar process. 46 V. c. 7, s. 101.

How Jurors to be summoned by Coroners and Elisors.

EMPANELLING THE GRAND JURY.

101. Where there do not appear as many as twelve of the Grand Jurors summoned upon a panel returned upon any precept to any Court of criminal jurisdiction, every such Court, upon request made for the Queen by Her Attorney-General, or any of her counsel learned in the law, or, in their absence, by the County Crown Attorney, or by any one thereto authorized or assigned by such Court, shall command the Sheriff or other officer to whom the making of the return belongs, to name and appoint so many of such other able men of the county, as the case may be, then present, as will make up a Grand Inquest of twelve, and the Sheriff, or other officer, aforesaid, shall, at such command of the Court, return such duly qualified men as are present or can be found, to serve on such Grand Inquest, and shall add and annex their names to the panel returned upon such precept; and the Court shall proceed with those Grand Jurors who were before empanelled, together with the talesmen

How Grand Jurors to be empanelled if a sufficient number do not appear.

so newly added and annexed, as if all the said Jurors had been originally returned upon such precept. 46 V. c. 7, s. 102.

DRAWING JURY AT TRIAL.

Empanelling
Jury at the
trial.

102. The name of every man summoned and empanelled as a Petit Juror upon the general precept for any sitting of the High Court, General Sessions of the Peace, or County Court, with his place of abode and addition, shall by the Sheriff be written distinctly on a piece of parchment, card or paper, as nearly as may be of the form and size following, viz.:

DAVID BOOTHE,

of Lot No. 11, in the 7th Con. of Albion,

MERCHANT.

and the names so written shall, by the direction and care of the Sheriff, be put together in a box or urn to be by him provided for that purpose, and shall be by him delivered to the Clerk of such Court. 46 V. c. 7, s. 103.

How the Clerk
is to proceed.

103.—(1) Where any issue is brought on to be tried, or damages are to be assessed, the clerk shall, in open court, cause the box or urn to be shaken so as sufficiently to mix the names, and then draw out twelve of the parchments, cards or papers, one after another (causing the box or urn to be shaken after the drawing of each name), and if any of the Jurors whose names are so drawn do not appear or are challenged and set aside, then such further number, until twelve Jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first twelve Jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the Clerk of the Court, shall be sworn or affirmed (as the case may be), and shall be the Jury to try the issue, or to assess the damages.

Drawing
names from
the box, etc.

(2) The names of the men so drawn and sworn shall be kept apart by themselves until the Jury have given in their verdict, and the same has been recorded, or until the Jury have been by consent of the parties, or by leave of the Court, discharged, and then the same names shall be returned to the box or urn, there to be kept with the other names remaining at that time undrawn, and so *toties quoties* as long as any issue remains to be tried, or any damages remain to be assessed. 46 V. c. 7, s. 104.

Names drawn
to be kept
apart, etc.

104. If an issue is brought on to be tried, or damages to be assessed, at any of the said sittings before the Jury in any other cause have brought in their verdict, or been discharged, the Court may order twelve of the residue of the said parchments, cards or papers (not containing the names of any of the Jurors who have not brought in their verdict or been discharged) to be drawn in the manner last aforesaid, for the trial of the issue so brought on to be tried, or for the assessment of damages, as the case may be. 46 V. c. 7, s. 105.

If another Jury is required before the last drawn have brought in their verdict.

105. Notwithstanding the last preceding two sections, where no objection is made on the part of the Queen, or any other party, the Court may try any issue or assess damages with the Jury previously drawn to try any other issue, or to assess damages without their names being returned to the box or urn, and redrawn, or may order to retire any of the Jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the Court, and may cause another name or other names to be drawn from the box or urn, and shall try the issue or assess the damages with the residue of the original Jury and the new Jurors who appear and are approved as indifferent, and so *toties quoties* as long as any issue remains to be tried or any damages remain to be assessed. 46 V. c. 7, s. 106.

Several causes may be tried in succession by the same Jury.

106. Where a full Jury does not appear at a sittings of the High Court, or at a sittings of a County Court for the trial of issues or assessment of damages, or where, after the appearance of a full Jury, by challenge of any of the parties, the Jury is likely to remain untaken for default of Jurors, every such Court, upon request made for the Queen by any one thereto authorized or assigned by the Courts, or on request made by the parties, plaintiff or defendant, or their respective solicitors, in any action, shall command the Sheriff or other officer to whom the making of the return belongs, to name and appoint, as often as need requires, so many of such other able men of the county, as the case may be, then present, as will make up a full Jury, and the Sheriff or other officer aforesaid shall, at such command of the Court, return such duly qualified men as may be present, or can be found, to serve on the Jury, and shall add and annex their names to any panel that has been returned upon any precept or *venire facias*, in such cause. 46 V. c. 7, s. 107.

If a full Jury do not appear, a *talus* may be granted.

ENTRY OF SERVICE OF JURORS.

107. Immediately after the sittings of the High Court or of the General Sessions of the Peace, or County Court, the Sheriff shall, on the Jury List from which the panel of Grand Jurors (if any) returned to such sittings was drafted, and on the Jury List from which the panel of Petit Jurors returned upon the general precept to such sittings was drafted, opposite

The Sheriff to keep a record of Jurors who serve.

the names of the Jurors respectively, note the non-attendance or default of all the Jurors in such panels who have not duly attended and served upon such panels until discharged by the court. 46 V. c. 7, s. 108.

CHALLENGES.

The want of qualification a good ground of challenge.

108. If any person not duly qualified be returned as a Juror for the trial of any issue in any cause, civil or criminal, or on any penal statute, the want of such qualification shall be a good cause of challenge, and he shall be discharged upon such challenge if the Court is satisfied of the fact; but the want of a sufficient property qualification shall not, at the trial of any such case, be a good cause of challenge, either by the Crown or by the party, nor a cause for discharging the Juror upon his own application. 46 V. c. 7, s. 109.

Not the want of freehold.

Not to extend to Special Jurors.

109. Nothing in the preceding section contained shall extend in any wise to a Special Juror. 46 V. c. 7, s. 110.

In civil cases each party may challenge four peremptorily.

110. In any civil case, and any case upon a penal statute each party, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may, on each side, except in the case of Special Jurors, challenge peremptorily, without assigning any cause for the same, any four of the Jurors drawn to serve on the trial of the cause; and the right of challenge hereby conferred shall extend to the Crown, when a party within the meaning of this section; but this shall not be construed to affect the right of the Crown to cause a Juror to stand aside until the panel has been gone through. 46 V. c. 7, s. 111.

That a Juror affirms no cause of challenge.

111. It shall not be a good ground of challenge against a person called upon to serve as a Juror that he belongs to any religious persuasion or denomination allowed by law to affirm instead of taking an oath, but every such person shall be as eligible and liable to serve on all Juries and inquests on his being affirmed, as if he had been sworn in the usual way. 46 V. c. 7, s. 112.

SPECIAL JURIES.

Either party may strike a special Jury.

112. Her Majesty, or any prosecutor, relator, or plaintiff, and any defendant in any case whatever, whether civil or criminal, or on any penal statute, excepting only on indictments for treason or felony, may in any such case triable by a Jury have the issue joined tried by a Special Jury upon suing out the necessary Jury Process for that purpose, and procuring such Special Jury to be struck and duly summoned for the day on which the trial of such case is to be had, and every Jury so struck shall be the Jury returned for the trial of such issue. 46 V. c. 7, s. 113.

113. In the event of a new trial being ordered in any case after the verdict of a Special Jury, the *venire facias juratores* shall set forth the names of the Jurors who sat on the first trial of such cause, or, in the event of more trials than one having been previously had, the names of all Jurors who sat upon any of such trials, and none of the Jurors who so sat on any such former trial shall be returned or sit as Jurors upon any subsequent trial of the same cause. 46 V. c. 7, s. 114.

New trial in
Special Jury
cases

114. In every case the party desiring a Special Jury to be struck, whether an actor in the cause or not, shall have a right in person, or by his solicitor or agent, to sue out a writ of *venire facias juratores* for that purpose, and every such writ before being delivered to the Sheriff or other officer, to whom it is directed, shall be endorsed with a direction to the Sheriff or other officer, requiring him to return a Special Jury on the same, and every Sheriff, or other officer, upon receipt thereof, shall, by a memorandum in writing upon the writ, appoint some convenient day and hour for striking such Special Jury, the day and hour so fixed being sufficiently distant to enable the party suing out the said *venire*, to give the necessary notice to the opposite party. 46 V. c. 7, s. 115.

The party
requiring a
Special Jury
may sue out a
writ of *venire
facias juratores*.

115. In such case the party, his solicitor or agent suing out the *venire facias*, shall give notice in writing to the opposite party, his solicitor or agent, that he has sued out a *venire facias*, in the cause, for the purpose of having a Special Jury struck therein, and of the day and hour appointed by the Sheriff or other officer for striking the same, and the notice shall be served on the opposite party, his solicitor or agent, four full days before the day so appointed, and an affidavit or affirmation of the service, or an admission in writing under the hand of the solicitor or agent on whom it has been served, shall be produced to the Sheriff or other officer, at the time appointed for striking the Special Jury, and in default thereof the Sheriff or other officer shall not proceed to strike the Special Jury upon such appointment. 46 V. c. 7, s. 116.

Such party to
give notice to
the opposite
party

116. Every Special Jury to be struck under the authority of section 112 of this Act, shall, except as hereinafter provided, consist solely of persons whose names appear on the Roll of Grand Jurors for the High Court or on the Roll of Grand Jurors for the Inferior Courts for the year in which the writ of *venire facias* is returnable. 46 V. c. 7, s. 117.

Qualifications
of Special
Juries to be
struck under
section 112.

117. Every such Special Jury shall be struck in the following manner, that is to say:

How a Special
Jury is to be
struck.

1. The Sheriff shall provide a set of ballots or pieces of parchment, card or paper, of as uniform and convenient a size as reasonably may be, and containing the same number of ballots as there are numbers on the respective Grand Jurors' Rolls,

Ballots to be
prepared.

from which the said Special Jury is to be struck, and the whole of the numbers of such Grand Jurors' Rolls shall be printed or written upon such ballots respectively, allowing one number to each ballot, and distinguishing each number by the letters H. C. or I. C. according as it belongs to the Roll of Grand Jurors for the High Court, or to the Roll of Grand Jurors for the Inferior Courts;

Drawing
Jurors.

2. At the office of the Clerk of the Peace, at the time appointed for such purpose, in the presence of all the parties in the case and of their solicitors and agents (if they respectively attend, or if none of the parties, their solicitors or agents, attend, then upon such proof as is hereinbefore provided of the service of the notice of striking such Special Jury), the Sheriff shall put all the ballots in the box or urn, and after having caused the box or urn to be shaken so as sufficiently to mix the ballots, he shall draw out of the box or urn forty of the numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the Grand Jurors' Roll to which the ballot belongs, and read aloud the name to which the number is appended in the Roll;

Objection to
Jurors drawn.

3. If, at the time of so reading such name, either party, or his solicitor or agent, objects that the man whose name has been so drawn is in any manner incapacitated from serving on the Jury, and also then and there proves the same to the satisfaction of the Sheriff, the name shall be set aside, and the Sheriff shall instead thereof draw out of the box or urn another number, and shall in like manner refer to the corresponding number in the Grand Jurors' Roll to which the ballot belongs, and read aloud the name to which the number is appended in the Roll, and such name may be in like manner set aside, and other numbers and names be drawn according to the mode of proceeding hereinbefore described for the purpose of supplying names in the places of those set aside until the whole number of forty names not liable to be set aside is completed;

If forty names
cannot be
obtained.

4. If in any case it so happens that the whole number of forty names cannot be obtained from the Grand Jurors' Rolls, the sheriff shall, in like manner from the Grand Jurors' Rolls in the Jurors' Book of the nearest year for which there is a Jurors' Book or certified copy thereof in the office of the Clerk of the Peace, ballot, in addition to those already taken from the first mentioned Grand Jurors' Rolls, the number of names required to make up the full number of forty names;

Sheriff to
make lists.

5. The sheriff shall thereupon make out a list of the forty names, together with their respective places of abode and additions, from which list, after a reasonable time allowed in the discretion of the sheriff for inquiry and consideration respecting the same, each party, his solicitor or agent, shall strike out twelve names, the names being so struck out by

parties, one by one alternately, the party suing out the *venire* striking out. *facias* commencing;

6. The sheriff shall return upon the *venire facias* the sixteen persons whose names remain on the list, to appear on the day appointed for the trial of the cause;

7. From the sixteen persons, or so many of them as appear in obedience to the summons, a Special Jury for the trial of the cause shall be taken by ballot in the manner hereinbefore by section 103 of this Act prescribed for the drawing of Petit Jurors from the general panel therein mentioned. 46 V. c. 7, s. 118.

118. If any of the parties in the cause neglects to attend in person or by solicitor or agent, at the striking of the Special Jury, the sheriff, upon production of the affidavit, affirmation, or admission of service of the notice as aforesaid, and after waiting at least half an hour for the absent party, shall, if requested by the other party, his solicitor or agent, proceed to strike the Special Jury, and in case of the continued absence of such first mentioned party, the sheriff shall, on his behalf, strike out of the list the twelve names to be, by such party, struck out of the list as aforesaid. 46 V. c. 7, s. 119.

119. Immediately after the striking of the Special Jury, the sheriff, or other officer charged with the execution of the writ of *venire facias juratores*, shall certify the sum required to pay the attendance of the Jurors for three days, and the allowance for mileage and sheriff's fees: and the party suing out the writ shall deposit with the sheriff or other officer the sum so certified as sufficient to pay such expenses as aforesaid, but nothing herein contained shall limit the payment required to be made to the Jurors to the sum so deposited. 46 V. c. 7, s. 120.

JURIES OF MERCHANTS, ETC.

120.—(1) In actions between:

(a) Merchant and Merchant; or

(b) Trader and Trader; or

(c) Merchant and Trader, involving one or more questions of mercantile considerations; and

(2) In actions between:

(a) Manufacturer and Manufacturer; or

(b) Mechanic and Mechanic; or

(c) Manufacturer and Mechanic, involving one or more questions of mechanical or scientific consideration; and

In what cases
Juries of Mer-
chants may be
had.

How to pro-
ceed if either
party fails to
attend.

The sixteen
Jurors to be
summoned.

How Special
Juries formed.

Parties issuing
writ of *ven.
fac.* to deposit
certain ex-
penses of
Jurors with
Sheriff.

(3) In actions between any of the former and any of the latter involving one or more of such questions ; and

(4) In actions between any other persons involving one or more questions of scientific consideration ;—

In what cases the Court may order a Special Jury, with or without consent of parties.

The High Court, or a Judge thereof, without the consent of parties in all but the last mentioned case, numbered four, and with the consent of parties in the last mentioned case, may order and direct such cause to be tried by a special jury of men belonging to the appropriate kind or kinds of business as aforesaid, or of scientific men respectively, as the case may be ; but any such order not made with the consent of parties, shall be made only upon notice to the adverse party. 46 V. c. 7, s. 122.

Contents of the order for such Jury. To be struck by Elisors.

121. In every order for striking a Special Jury, it shall be ordered that the Special Jury shall be struck, and the names of the special jurors be certified to the sheriff by three Elisors, to be appointed in writing by endorsement upon the order, one by the plaintiff in the cause, his solicitor or agent, another by the defendant, his solicitor or agent, and the third by the Registrar of the Division of the High Court, or Deputy Clerk of the Crown and Pleas or Local Registrar in which the cause is pending, or in case of the Elisors disagreeing, then by the majority of the Elisors, all three being present. 46 V. c. 7, s. 123.

The Sheriff to summon.

122. The sheriff upon the *venire facias* in such cause shall return and summon the persons whom the Elisors, or the majority of them, certify to him to have been struck as special jurors for the trial of the same. 46 V. c. 7, s. 124.

How writ of *venire facias* to be enforced.

123. The endorsement to return a Special Jury on the *venire facias* in every cause, shall direct the Sheriff to return a Special Jury of men of the appropriate kind of business as aforesaid, or of scientific men, as the case may be, pursuant to such certificate as he may receive from the Elisors (naming them) or a majority of them in that behalf appointed by such rule. 46 V. c. 7, s. 125.

How Special Juries are to be struck.

124. Every Special Jury shall be struck in the following manner, that is to say :

Appointment of a day.

1. The three Elisors, or a majority of them, upon the delivery to them of a copy of the order for the Special Jury and of the *venire facias* for the return of such jury, shall, at the request of either of the parties in such cause, make an appointment in writing of a day, hour and place for striking the Special Jury as by section 114 of this Act is provided with respect to other Special Juries.

List of qualified persons.

2. Upon notice of the appointment being served upon the opposite party, and the service being proved as in the said

section is provided with respect to other Special Juries, the Elisors shall, at the time and place so appointed, and after waiting the time prescribed by section 118, proceed to make a list of the names and additions of all the persons whose names appear on the Jurors' Rolls for the year in which the *venire facias* is returnable, and who in their judgment come within the description of persons required to be struck on the jury according to the exigency of the order.

3. If there are not forty such persons found upon the rolls, and if the Elisors, or the majority of them, know of a sufficient number of persons answering the description within the county, whether such persons are otherwise qualified and liable to serve, or exempt from serving as jurors or not, provided they are not persons disqualified from any of the causes set forth in section 10 of this Act, the Elisors, or a majority of them, shall add to the list the names and additions of a sufficient number of persons to complete the same to forty names.

If there be not
forty qualified

4. If there are the names of more than forty such persons on the rolls, the Elisors, or the majority of them, from the names of all persons on the rolls who answer such description shall, in the manner prescribed by section 117 of this Act for the striking other Special Juries, select forty of such names.

If more than
forty.

5. The list of the forty names being thus completed the same shall be reduced in the same manner as hereinbefore by section 117 provided with respect to other Special Juries.

Reducing the
list.

6. The Elisors shall thereupon give a certificate to each of the parties to the suit, their solicitor or agent certifying the names and additions of the sixteen persons whose names remain upon the list.

Names of the
sixteen Jurors
to be certified
to parties.

7. Every person so struck on such Special Jury shall be liable to serve on the same, although exempted from serving upon juries by the general provisions of sections 6 and 7 of this Act.

What exemp-
tions shall not
excuse.

8. The Sheriff or other officer to whom the *venire facias* is directed shall, upon receipt of either of the certificates, return and summon such sixteen persons accordingly.

Return and
summons.

9. From the sixteen persons so returned shall be selected the jury to try the cause, in the same way and under and subject to the like restrictions as section 117 of this Act provides with respect to other Special Juries. 46 V. c. 7, s. 126.

Striking Jury.

125. In case a Special Jury has been struck for the trial of an issue, the talesmen, if any be required, shall be selected from the jurors empannelled upon the Common Jury panel to serve at the same Court if a sufficient number of such men can be found, and the Queen, by any one duly authorized or assigned, and every party shall, in every such case, have and

In Special
Jury cases,
talesmen to be
taken from the
general panel.

may exercise their respective challenges to the talesmen so added, and the Court shall proceed to the trial of every such issue with those jurors who were before empanelled, together with the talesmen so newly added and annexed, as if all the said jurors had been returned upon the writ or precept awarded to try the issue. 46 V. c. 7, s. 127.

The same Special Jury may try several such cases.

126. Nothing herein contained shall prevent the same Special Jury, however nominated, from being summoned and returned, to try any number of causes, provided the parties respectively, or their solicitors, signify in writing to the Sheriff or other officer to whom the return of juries in such cases belongs, their assent to the nomination and return of such Special Jury for the trial of their respective cases; but if a juror has served upon one or more Special Juries at the same sittings, the Court may, upon his application, discharge him from serving upon any other Special Jury during the same sittings. 46 V. c. 7, s. 128.

COSTS OF SPECIAL JURIES.

The party who sues out the writ, to pay fees of striking, etc.

127. The party who sues out a *venire facias* for a Special Jury in any cause, shall pay the fees for striking such Special Jury, the fees of the Jurors, and all the expenses occasioned by the trial of the cause by the Special Jury, and shall not have any further or other allowance for the same upon taxation of costs than if the cause had been tried by a Common Jury, unless the Judge who tried the case certifies under his hand, in open Court, immediately after the verdict, or afterwards, upon notice at Chambers, that the same was a cause proper to be tried by a Special Jury. 46 V. c. 7, s. 129.

Costs where Special Jury summoned but cause not tried.

128. If, for any reason, a cause in which a Special Jury has been summoned be not tried, the party who sued out the *venire facias* for the Special Jury shall not have any further or other allowance for the same, upon taxation of costs, than if the Jury had not been summoned, unless a Judge, upon cause shewn, certifies under his hand that the same was a cause in which it was reasonable that a Special Jury should be summoned. 46 V. c. 7, s. 130.

VIEW BY JURORS.

Court may order a view out of the County in which case is to be tried.

129. Where in a civil case, or a case on a penal statute now pending or hereafter to be brought in the High Court it appears to the Court or a Judge thereof, that it will be proper and necessary that the Jurors or some of them, who are to try the issues in the case, should have a view of the place in question in order to their better understanding the evidence that may be given upon the trial of the issues, whether the place be situate within the County or United Counties in which the trial is to take place, or with-

out such County or United Counties, in any other County, the Court or Judge may make an order containing the usual terms, and, if the Court or Judge thinks fit, also requiring the party applying for the view to deposit in the hands of the Sheriff of the County or United Counties in which such case is to be tried a sum of money to be named in the order, for payment of the expenses of the view. 46 V. c. 7, s. 131.

Deposit by
party requiring
view.

130. The order shall also command special writs of *venire facias* and *distringas* to issue, to the Sheriff or other officer, to whom the writs are to be directed, commanding him to have six or more of the Jurors named in the writs, or in the panels thereunto annexed (who are mutually consented to by the parties, or if they cannot agree, are drawn by ballot from the panels), at the place in question, some convenient time before the trial. 46 V. c. 7, s. 132.

Writ therefor.

131. The viewers shall, then and there, have the place in question shewn to them by two persons in the writs named, to be appointed by the Court or Judge; and the Sheriff, or officer, who is to execute the writs, shall, by a special return thereto, certify that the view has been had according to the command of the same, and shall specify the names of the viewers. 46 V. c. 7, s. 133.

Locus in quo
to be shewn to
the viewers.

132. Where the parties in such case do not agree as to the jurors to be nominated to take the view, the viewers shall, by the Sheriff or other officer to whom the *venire facias juratores* in the case is directed, be drawn by ballot from the panel returned upon the *venire facias*, at some time and place to be appointed by the Sheriff or other officer for that purpose, in the like manner as by sections 102 and 103 of this Act is provided for drawing juries from the general panel at a sittings of the High Court; but no Sheriff or other officer shall proceed to draw the viewers from the panel without having first given at least forty-eight hours' notice in writing to the respective parties in the action, of the day, hour and place of the drawing. 46 V. c. 7, s. 134.

How the view-
ers shall be
selected.

133. Where a view has been allowed in any case, those men who have had the view, or such of them as appear upon the Jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who appear, as after all defaults and challenges allowed, make up a full Jury of twelve. 46 V. c. 7, s. 135.

The viewers to
be the first
sworn on the
Jury.

134. All the duties and obligations now imposed by law on the several Sheriffs and other persons when the place to be viewed is situate in the county or united counties in which the case is to be tried, shall be imposed upon and attach to the Sheriffs and other persons when the place to be viewed is situ-

Duties of
Sheriffs, etc.,
in such cases.

ate out of the county or united counties in which the case is to be tried. 46 V. c. 7, s. 136.

MISCELLANEOUS PROVISIONS.

The duties of Sheriffs may be performed personally or by deputy.

135. The duties by this Act required of the sheriffs of the different counties, and those also required of the Clerks of the Peace, may be performed either by the principal officer himself, or by his deputy. 46 V. c. 7, s. 137.

Omissions to observe the directions of this Act, not to vitiate the verdict.

136. No omission to observe the directions in this Act contained, or any of them, as respects the qualification, selection, balloting, and distribution of jurors, the preparation of the Jurors' Book, the selecting Jury Lists, from the Jurors' Rolls, the drafting panels from the Jury Lists, or the striking of Special Juries, shall be a ground of impeaching the verdict or judgment in any action. 46 V. c. 7, s. 138.

No person to be summoned whose name is not on the Roll of Jurors.

137. No man shall be liable to be summoned or empanelled to serve as a juror in any county, city or town, upon any inquest or inquiry to be taken or made by or before any commissioners appointed under the great seal of the Province, or the seal of any Court in Ontario having general jurisdiction throughout the same, or having general jurisdiction throughout any county of the same, unless the name of such person appears upon one or other of the Jurors' Rolls for the year in which such person is called upon to serve on such inquest or inquiry. 46 V. c. 7, s. 139.

SHERIFFS' AND CORONERS' JURIES.

Exception; Coroners' Juries, etc.

138. Nothing in the next preceding section contained shall extend to an inquest to be taken by or before the coroner of any county, union of counties, city or town, by virtue of his office, or to an inquest or inquiry, to be taken or made by or before any sheriff, coroner, or high bailiff of any county, city or town, but the sheriffs, coroners and high bailiffs aforesaid, in all counties, cities and towns shall respectively take and make all inquests and inquiries by jurors of the same description as they were used and accustomed to do before the passing of this Act. 46 V. c. 7, s. 140.

JURIES DE VENTRE INSPICIENDO.

As to Juries of Matrons.

139. Nothing herein contained shall extend to a jury of matrons, or to a writ *de ventre inspiciendo*. 46 V. c. 7, s. 141.

FEES OF JURORS.

Jurors' fees and mileage.

140. Every Grand Juror actually attending a sittings of the High Court or at the General Sessions of the Peace, and every Petit Juror actually attending a sittings of the

High Court or of the General Sessions of the Peace, or County Courts, shall be entitled to receive in manner hereinafter provided, the sum \$1.50 per day, for every day he attends such Court, and the sum of ten cents per mile for every mile he necessarily travels from his place of residence to the said Court, and such additional sum, if any, as the County Council may, by by law, from time to time fix and determine; and the distance travelled shall be ascertained by the declaration of the sheriff's bailiff, who summoned the juror, or by the declaration of the juror himself; but every juror who makes a false declaration respecting such distance, shall forfeit his right to receive any payment for travelling to or attending such Court as a juror. 46 V. c. 7, s. 142.

141. No Petit Juror shall be entitled to any fee or allowance other than is provided by or under this Act. 46 V. c. 7, s. 143. Fees allowed.

142. Every sheriff shall make a pay list for the Petit Jurors summoned to attend any of the aforesaid Courts in the form of Schedule C to this Act, and shall attend or cause some officer to attend at the opening of the Court, on the morning of every day on which the Court sits for the trial of causes by jury, and upon the Petit Jurors being called over, shall check and mark the word "present," or "absent," as the case may be, in the proper column of the list opposite the name of every juror, and on the last day of the sitting of the Court shall certify and return the pay list to the treasurer of the county. 46 V. c. 7, s. 144. Sheriff to make a pay list for Petit Jurors.

143. The pay list, checked and certified as aforesaid, shall be a sufficient authority for the treasurer to pay to every Petit Juror the sum to which he appears entitled, as certified by the list, and the treasurer shall forthwith pay every juror the sum so appearing to be due to him on the list. 46 V. c. 7, s. 145. Treasurer to pay the Jurors.

144. Every sheriff shall be entitled to receive from the treasurer of the county of which he is sheriff, such sum for each pay list, and such sum per diem for checking the same every day at the opening of the Court, and for certifying and returning the same to the treasurer, as the County Council by by-law determines; and for the purposes of the payment of jurors, the County Court and General Sessions shall be one Court, and the duty of calling over jurors at the opening of the Court daily, shall be performed by the clerk of whichever of the said Courts respectively is first opened. 46 V. c. 7, s. 146. Allowance to Sheriffs.

145. The Marshal or Clerk of the Court, or Clerk of the Peace, as the case may be, shall at the opening of the Court, and before any other business is proceeded with, call over the List of Jurors to be called over daily when Court opens.

names of the Petit Jurors, so that the Sheriff or his officer may check off those who are present or absent. 46 V. c. 7, s. 147.

Jurors not attending not to be paid.

146. A Petit Juror not appearing when so called, shall not be entitled to any pay for the day on which he makes default. 46 V. c. 7, s. 148.

Fees and mileage of Special Jurors in civil causes.

147. There shall be paid to every special juror summoned upon the trial of any issue in a civil cause, the sum of \$2 for each day's attendance at the sitting of the Court to which he is summoned, and for each day coming to and returning from the Court, together with mileage for the number of miles necessarily travelled by him, in coming to the Court, at the rate of ten cents per mile; and the sums so paid shall be the fees of jurors, mentioned in section 127 of this Act. 46 V. c. 7, s. 149.

FUND FOR PAYMENT OF JURORS.

Fees on Entry of Records.

Sums to be paid with record when entered for trial in Jury cases.

148. With every record entered for trial of issues or assessment of damages by a jury, there shall be paid to the Clerk of Assize, or Deputy Clerk of the Crown, or Local Registrar of the High Court for the County, the sum of \$3, and to the Clerks of the several County Courts the sum of \$1.50, and such sums shall be forthwith paid over to the Treasurer of the county and shall form part of the fund from which petit juries are to be paid; but the said fees shall only be charged in case there are issues to be tried by a jury; and no record shall in such case be entered for trial or assessment unless the sums before mentioned are first paid. 46 V. c. 7, s. 150.

Record not to be entered unless sum is paid.

In Criminal Cases.

The like in criminal cases where either party is liable to pay costs.

149. In criminal cases in which by law the party prosecuting, or the party prosecuted, is liable to pay the costs of the prosecution, the officer of the Court shall charge against and receive from the party so liable the sum of \$3 over and above the sum to which he is otherwise liable, and such sum of \$3 shall form part of the fund for the payment of petit jurors, and shall forthwith be paid over by the officer receiving it, to the treasurer of the county in which the prosecution has been carried on. 46 V. c. 7, s. 151.

Fines and Penalties.

Certain fines to go towards payment of Jurors.

150. All fines imposed upon jurors for non-attendance levied in the several counties shall be paid to the treasurers of the said counties respectively, and shall form part of the fund for the payment of petit jurors under this Act. 46 V. c. 7, s. 152.

County Councils to Supply Deficiency.

151. In case the sums appropriated by this Act are not sufficient to pay the jurors, the several County Councils shall raise and appropriate such sums of money as in their judgment will be sufficient to pay the petit jurors according to the terms of this Act. 46 V. c. 7, s. 153.

County Councils to provide funds for paying Jurors.

152. Until such provision is made, every petit juror shall be allowed the sum of 25 cents in every cause in which he is sworn as a juror in a civil case in the High Court, and the sum of 12½ cents in cases in the County Courts, and the fee shall be paid by the plaintiff or his solicitor, and shall be accounted for in costs by the party charged with the payment thereof. 46 V. c. 7, s. 154.

Until provided what fees Jurors shall receive.

153. In every county in which a Petit Jury Fund is for the first time provided, the treasurer of the county shall give notice to the Sheriff of the county, who shall thereupon perform the duties imposed upon him under this Act. 46 V. c. 7, s. 155.

County Treasurer to notify Sheriff when funds are provided.

154. The Municipal Corporation of any County in Ontario of which a city or a town withdrawn from the jurisdiction of the County Council forms part for judicial purposes, may demand and recover from the Municipal Corporation of the city or town a portion of the expenses incurred by the county, in any year, for the payment, summoning, drafting, selecting and enrolling of jurors. 46 V. c. 7, s. 156.

Cities bound to contribute.

155. In case the Councils of counties and of cities or separated towns do not agree as to the shares of the fees and disbursements for juries to be borne by the counties, cities and towns respectively, the same shall be determined by arbitration under the provisions of *The Municipal Act*, and the portion to be borne by the city or town shall be payable to the county immediately after the close of each year. 46 V. c. 7, s. 157.

Shares of fees for Jurors to be borne by counties, cities and towns.

156. The Council of the city or town shall raise by assessment the sum of money required by the city or town for the purposes of this Act, or shall pay such sum out of any moneys belonging to the city or town, and applicable to municipal purposes generally. 46 V. c. 7, s. 158.

The Council of cities and towns to raise the necessary funds by assessment, etc.

FEES TO OFFICERS UNDER THIS ACT.

1.—To Selectors.

157. The Selectors of jurors under section 17 of this Act shall for every selection and distribution of jurors, and the report thereof made by them, be entitled to such sum of money

Fees to the Selectors under section 17.

as is authorized to be awarded them by the Council of the municipalities of which they are respectively officers; and upon receipt of a certificate from the Clerk of the Peace that the report has been returned to him within the time limited by law, such sum of money shall be paid to the Selectors respectively by the treasurers of their respective townships, villages, towns and cities, in such manner as such Municipal Councils severally direct. 46 V. c. 7, s. 159.

Fees of
Selectors.

158. The County Selectors of jurors shall be entitled to the sum of \$4.00 each, for each day's attendance, for the purpose of selecting jurors, and for attendance and the performance of the duties under sections 13, 14 and 15 of this Act, but when the number of Grand and Petit Jurors to be selected does not exceed five hundred, no Selector shall be entitled to be paid for a greater number of days than four, inclusive of the day of meeting, under the said sections 13, 14 and 15 of this Act. When the number to be selected exceeds five hundred, each Selector actually attending shall be entitled to be paid as for one additional day for every two hundred additional names selected, and no more. Upon receipt of a certificate from the Clerk of the Peace for the county or union of counties that the duties required of such Selectors have been duly performed by them, such sum shall be paid by the treasurer of the county to every such Selector of jurors, and the Clerk of the Peace shall be paid for his attendance at the meeting of the county Selectors the same fees as a County Selector. 46 V. c. 7, s. 160.

¶2.—*To Clerks of the Peace.*

Fees to Clerks
of the Peace.

159. The Clerk of the Peace of every county shall be entitled to the following sums of money for the respective services performed by him under this Act, that is to say:

1. For receiving and examining the reports of selectors for each city, town, village and township, causing any deficiency which may be found therein to be supplied, and filing the same in his office. \$0 50
2. For giving certificates to selectors of Jurors, of duties having been performed; but one certificate for all the selectors for each municipality shall be given 0 50
3. For preparing in proper form each Jurors' Book, and superintending the making up of the same (besides actual disbursements for stationer's charges)..... 3 00
4. For making up Jurors' Books, entering all the names and numbers, and all other matters required to be entered therein, per one hundred names 2 00
5. For each copy of the Jurors' Book required by this Act, per one hundred names 2 00
6. For each certificate required to be entered in the Jurors' Book to verify same..... 1 00
7. For copy of Jury List required to be entered, per one hundred names 2 00
8. For each panel of Jurors drafted from the Jury List, per one hundred names on each Jury List..... 2 00

9. For entering each panel in the Jurors' Book, with the numbers corresponding to the Jury List \$2 00
10. For making up aggregate return in detail of Jurors 5 00
11. For copy thereof, and transmitting same to Provincial Secretary when required, and for office copy of the same, each..... 2 00

46 V. c. 7, s. 161.

3.—*To Sheriffs, etc.*

160. The Sheriff or other officer of every county shall, exclusive of such fees as he may be entitled to from the parties in any action, be entitled to the following sums of money for the respective services performed by him under this Act. that is to say: Fees to Sheriffs, etc.

1. For each panel of Jurors, whether Grand or Petit, returned and summoned by him in obedience to any general precept for the return of the Grand or Petit Jurors for any sittings of the High Court or General Sessions of the Peace or County Court respectively, under this Act..... \$4 00
2. For copies of such panel to be transmitted to the proper officers, each..... 1 00
3. For every summons served upon the Jurors on any panel.... 0 25
4. In the case of Sheriffs of Counties (other than the County of York and the City of Toronto), for every mile which the Sheriff or his Deputy or Bailiffs necessarily and actually travelled from the County Town for the purpose of serving such summonses (such mileage to be allowed for going only, and not for returning) To the Sheriff of the County of York and the City of Toronto. 0 13
0 08
5. Advertising drafting of Jury panels..... } 1 00
(Required by section 87)..... }
6. Notices to Clerk of the Peace, and Justices, each..... } 0 50
(Required by same section)..... }
7. Attending to draft Jury panels 4 00
8. Travelling to serve summons, per mile..... 0 13
9. Writing names of Jurors on cards..... 2 00

Items Nos. 5 to 9 inclusive shall not apply to the Sheriff of the County of York or of the City of Toronto.

46 V. c. 7, s. 162; 47 V. c. 10, ss. 14, 15.

MODE OF PAYMENT.

161. In all the foregoing cases, where there are more than one hundred, or more than an even number of hundreds of such names, if the broken number beyond the hundred or hundreds falls short of fifty names, the same shall not be reckoned, and if the broken number amounts to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred. If there are more than one hundred names. 46 V. c. 7, s. 163.

162. Upon proof, by affidavit made before a commissioner authorized to take affidavits in the High Court, of the several services having been executed, or, in the case of the Sheriff, of such travel having been necessarily performed in going to effect the service of the summonses, the affidavit being accompanied How the said fees shall be paid.

with a detailed account shewing the number of miles actually and necessarily travelled in going to serve each Juror (so that at the end of the service the officer summoning the jury shall only be entitled to mileage for the number of miles actually travelled) and upon the account being properly audited, and an order of the Board of Audit being made for the payment thereof, the treasurer shall, out of any money in his hands belonging to the county, city or town respectively, not otherwise specially appropriated by Act of the Legislature, pay to such officers respectively the amount of their fees; and for all money so paid, the treasurer shall be allowed in his accounts with the county, city or town, as if the same had been paid under the special authority and direction of the Municipal Council of the county, city or town respectively. 46 V. c. 7, s. 164.

PENALTIES.

Attaints of
Jurors
abolished.

163. The Queen shall not, nor shall any one on her behalf, nor shall any party or parties in any case whatsoever, commence or prosecute any writ of attaint against any jury or jurors for the verdict by them given, or against the party or parties who have judgment upon such verdict, and no inquests shall be taken to inquire of the concealments of other inquests, but all such attaints and inquests have been and shall remain abolished. 46 V. c. 7, s. 165.

Penalty on
Jurors for non-
attendance.

164. If a person, having been duly summoned to attend on a jury, in any of the Courts hereinbefore mentioned, does not attend in pursuance of such summons, or being there called, does not answer to his name: or if a juror, or talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the Court, the Court shall set such fine upon every such juror or talesman (unless some reasonable excuse be proved by oath, affidavit or affirmation), as the Court thinks meet. 46 V. c. 7, s. 166.

On viewers for
non-attend-
ance.

165. Where a viewer, having been duly summoned to attend on a jury, makes default, as in the last preceding section is set forth, the Court at which he has been summoned to attend for the trial of such cause shall set upon such viewer (unless some reasonable excuse be proved as aforesaid) a fine, in the discretion of the Court, to the amount of \$20 at the least. 46 V. c. 7, s. 167.

Penalty on
Jurors failing
to attend upon
inquests and
inquiries, &c.

166. If a person, having been duly summoned and returned to serve as a juror in any county, city or town upon an inquest or inquiry, before a Sheriff or Coroner, or before any of the Commissioners mentioned in section 137, does not, after being openly called three times, appear and serve as such juror, the Sheriff, Coroner and Commissioners respectively, shall (unless some reasonable excuse be proved on oath, affi-

davit or affirmation) impose such fine upon the person so making default as they respectively think fit, not exceeding \$20. 46 V. c. 7, s. 168.

167. The Sheriff, Coroner and Commissioners respectively shall make out and sign a certificate containing the Christian name and surname, the residence and addition of every man so making default, together with the amount of the fine imposed and the cause of the fine, and transmit the certificate to the Clerk of the Peace for the county in which the defaulter resides, on or before the first day of the General Sessions of the Peace next ensuing. 46 V. c. 7, s. 169.

Sheriff to certify defaults and transmit copies.

168. Every such clerk shall copy the fines so certified on the roll on which all fines and forfeitures imposed at the General Sessions are copied, and the same shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects, as if they had been part of the fines imposed at the General Sessions. 46 V. c. 7, s. 170.

Fines to be estreated.

169. If a Sheriff, or other officer as aforesaid, wilfully empanels and returns a person to serve on a jury in any of the Courts aforesaid, whose name has not been duly drawn upon such panel, in the manner in this Act prescribed, or if a Clerk of Assize, Clerk of the Peace, or other officer of any of the Courts aforesaid, wilfully records the appearance of any man so summoned and returned who has not really appeared—in every such case the Court shall, upon examination in a summary way, set such fine upon the Sheriff, Clerk of Assize, Clerk of the Peace, or other officer offending, as the Court thinks meet. 46 V. c. 7, s. 171.

On Sheriffs, etc., for default to perform duties assigned to them.

170. No Sheriff, Deputy Sheriff, Coroner, Elisor, Bailiff or other officer or person whatsoever, shall directly or indirectly, take or receive money or other reward or promise of money or reward, to excuse any man from serving or being summoned to serve on juries, or under such colour or pretence; and no Bailiff or other officer appointed by any Sheriff, Deputy Sheriff, Coroner or Elisor, to summon jurors, shall summon or pretend to summon any man to serve thereon other than those whose names are specified in a warrant or mandate signed by such Sheriff, Deputy Sheriff, Coroner or Elisor, and directed to such Bailiff or other officer; and if any Sheriff, Deputy Sheriff, Coroner, Elisor, Bailiff or other officer, wilfully transgresses in any of the cases aforesaid, or summons any of the jurors, not being a Special Juror, less than eight days before the day on which he is required to attend, or summons a Special Juror less than three days before the day on which he is to attend, except in the cases hereinbefore excepted, the High Court, General Sessions of the Peace or County Court, within whose jurisdiction the offence has been com-

On Sheriffs, etc., taking money as a bribe.

mitted, shall, on examination and proof of such offence in a summary way, set such fine upon every person so offending as the Court thinks meet. 46 V. c. 7, s. 172.

On Sheriffs, etc., making any unauthorized alteration in any Jurors' Book, or neglecting to return the same, etc.

171.—(1) If a Sheriff or Deputy Sheriff of a county, makes, or causes to be made, any alteration whatever in any of the rolls, lists or panels in any Jurors' Book, or in the certified copies thereof in their official custody respectively, except in compliance with the directions in this Act contained, or neglects or refuses to prepare the Jurors' Book, the ballots necessary for drafting the panels, striking Special Juries and drawing juries at the trial, or neglects or omits to return the Jurors' Book, and the ballots for drafting the jury lists to the Court to which by this Act he is required to return the same, or neglects or omits to perform any other duty required of him by this Act, or wilfully does anything inconsistent with the provisions of this Act;

On Registrars or Deputy Clerks of Crown and Pleas altering Lists, etc.

(2) Or, if a Registrar or Local Registrar of the High Court or a Deputy Clerk of the Crown and Pleas makes, or causes to be made, any alteration whatever in the rolls, lists or panels in any Jurors' Book, or in any copy thereof deposited in his office, or wilfully certifies as true any copy of a Jurors' Book, or any roll list or panel therein, which is not a true copy thereof;

On Assessors not making and returning the Assessment Roll in proper time.

(3) Or, if an assessor of a township, village or ward neglects or omits to make out and complete his assessment roll for such township, village or ward, and to return the same to the office of the clerk of the township or village, or of the city or town, in which such ward is situated, or to the other office or place of deposit for such roll, on or before the 1st day of September, of the year for which he is such assessor, except in the cases provided for by section 52 of *The Assessment Act*;

Rev. Stat. c. 193.

On municipal officer not producing Assessment Roll as required.

(4) Or, if a city, town, village or township clerk, or any assessor, or other officer or person who, at the time of the annual meeting of the selectors of jurors for any city, town, village or township, has the actual charge or custody of the assessment rolls or assessment roll of such city, town, village or township for such year, neglects or omits to perform the duties required of him by section 20 of this Act, as regards the production of the roll or rolls at the annual meeting of selectors, or the permitting the selectors to have necessary access to the same for the purposes of their duty; 46 V. c. 7, s. 173 (1-4).

On Selectors of Jurors for wilful dereliction of duty.

(5) Or, if a selector of jurors for a township, village or ward wilfully selects, ballots and reports as qualified and liable to serve as a Grand and Petit Juror any person who, according to the provisions of this Act, ought not to be so selected, balloted or reported, or takes money or other reward for so selecting, balloting or reporting, or omitting to select, ballot

or report any person whomsoever, or wilfully inserts in such report a wrong description of the name, place of abode, or addition of any one so selected, balloted and reported, or neglects or omits to complete his selection, ballot and report, and to deposit the same in the proper office on or before the 25th day of October, of the year for which he acts as such selector of jurors; 46 V. c. 7, s. 173 (5); 48 V. c. 13, s. 15 (2).

(6) Or, if a Clerk of the Peace, or his deputy, when acting in performance of the duties required of him by this Act, neglects or omits to perform any duty required of him in the manner herein prescribed, or wilfully does anything inconsistent herewith;

On Clerks of Peace for wilful dereliction of duty.

(7) In every such case, the person so offending shall for such offence, forfeit the sum of \$200, one moiety thereof to be paid over to the treasurer of the county, and shall form part of the fund for the payment of Petit Jurors under this Act, and the other moiety thereof, with full costs, to any person who will sue for the same, in any Court of competent jurisdiction, by action or information; and every such action shall be tried by the Judge sitting alone, and without the intervention of a jury, and when the same has been commenced in the County Court, the Judge of the County Court shall, upon the application of either party thereto by his order direct that the same shall be tried at a sittings of the High Court, and the record may thereafter be entered and the action tried at such sittings; but nothing herein contained shall be construed to relieve an assessor from the obligation of returning the assessment roll at an earlier period of the year, or from any penalty he may incur by not returning the same accordingly. 46 V. c. 7, s. 173 (6, 7).

Amount of penalty, and how to be applied.

172. Except as otherwise provided by section 150 of this Act, all fines imposed under this Act by the High Court or any Judge or other person presiding at any sittings thereof, General Sessions of the Peace, or County Court, shall be levied and applied in the same manner as other fines imposed by this Act. 46 V. c. 7, s. 174.

How pecuniary penalties shall be levied and applied.

173. All other penalties under this Act, for which no other remedy is given, may be recovered by summary proceeding before any Justice of the Peace, and the said Justice may, on complaint, hear and examine witnesses on oath or affirmation, and determine the same, and if he sees fit may mitigate the penalty to the extent of a moiety thereof. 46 V. c. 7, s. 175

Recovery by summary proceeding.

Mitigation of penalty.

174. Unless the penalty is forthwith paid upon conviction, the Justice shall, by warrant under his hand and seal, levy, the same by distress and sale of the offender's goods and chattels, and for want of sufficient distress the offender shall be committed by warrant, under the hand and seal of the Justice, to the common gaol or house of correction, for such term, not

Committal for non-payment.

Application of penalties. exceeding six months, as the Justice thinks proper, unless the penalty is sooner paid ; and all penalties shall be paid to the treasurer of the county. 46 V. c. 7, s. 176.

GENERAL PROVISIONS.

Affirmations instead of oaths. 175. Nothing herein contained shall be construed to affect or alter any statute or law whereby the affirmation of any person belonging to certain religious societies, classes or descriptions of persons is allowed, or directed to be in all cases received and taken from such person in lieu of an oath. 46 V. c. 7, s. 177.

Certain allegations not necessary in setting out legal proceedings. 176. Whenever any legal proceeding in which a jury was empanelled, is required to be set out, it shall not be necessary to specify that any particular person or persons who acted as jurors made affirmation instead of oath, but it may be stated that they served as jurymen, in the same manner as if no Act had passed for enabling persons to serve as jurymen without oath. 46 V. c. 7, s. 178.

SCHEDULES OF FORMS.

SCHEDULE A.

(Section 28.)

FORMS OF REPORT OF SELECTORS OF JURORS FROM ASSESSMENT ROLL.

Report of the selection and distribution of jurors for the Township of Albion (or for the Ward of St. James, in the City of Toronto), in the County of York, for the year 18 , made at the town (or city hall) of the said township (or city) by A. B., Town Reeve (or Mayor), C. D., Town (or City) Clerk, and E. F., G. H. and I. J., Assessors of the said township (or Ward), on the day of in the year 18 , pursuant to the directions of *The Jurors' Act*. (1)

FIRST DIVISION.

For the Roll of Grand Jurors to serve in Her Majesty's High Court of Justice.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
John Anderson.....	16	2	Esquire.
Peter Cameron	4	6	Yeoman.
William O'Leary	Oatlands.	Gentleman.
Alfred Piper	17	1	Esquire.
&c.			

SECOND DIVISION.

For the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
William Adams	9	4	Gentleman.
Richard House	7	5	Yeoman.
Jacob Wyse	2	1	Tailor.
Allan Thomas	24	5	Esquire.
&c.			

THIRD DIVISION.

For the Roll of Petit Jurors to serve in Her Majesty's High Court of Justice.

NAMES	No. of Lot or House, where known to the Selectors.	Concession or Street, or unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
David Boothe	11	7	Merchant.
George Sullivan	3	4	Esquire.
Nathan Lowe	6	1	Shoemaker.
Henry Grace	7	Yeoman.
Etc.			

FOURTH DIVISION.

*For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts
of Criminal or Civil Jurisdiction.*

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
George Gule.....	7	8	Tailor.
Samuel Jones.....	15	3	Yeoman.
William Carpenter.....	7	2	Esquire.
Thomas Hoole Rogers.....	11	1	Gentleman.
Etc.			

We, the above-named Selectors of Jurors for the township of Albion (or as the case may be), do hereby solemnly declare, each severally for himself, that we have made the Selection and Distribution of Jurors in this Report from the Assessment Roll of the said township for the present year, to the best of our judgment and information, pursuant to the directions of *The Jurors' Act*, and that we have so made the same without fear, favour or affection of, to or for any person or persons whomsoever, gain, reward, or hope thereof, other than the fees to which we are entitled under the provisions of the said Act.

Witness our hands and seals, the day and year last above written.

A. B. [L.S.] Town Reeve.
C. D. [L.S.] Town Clerk.
E. F. [L.S.] Assessor.
G. H. [L.S.] Assessor.
I. J. [L.S.] Assessor.

46 V. c. 7, Sched. A.

SCHEDULE B.

(Section 29.)

FORM OF JURORS' BOOK.

The JURORS' BOOK for the County of York, for the year 18 . (1)

1.—ROLL OF GRAND JURORS

To serve in Her Majesty's High Court of Justice. (2)

No. on Roll.	NAMES.	No. of Lot or House, as in Report of Se- lectors.	Concession or Street, or unincorporated Village or Hamlet, as in Report of Se- lectors.	ADDITIONS.	No. on List.	REMARKS.
	1 ALBION. (Township.)					
1	Anderson, John	16		Esquire.		Exempted, having served on G. J. List S. C., 18
2	Aylof, Graham	9	4	Gentleman.		
3	Bosworth, David	11	7	Merchant.		
4	Cameron, Peter	4	6	Yeoman.		
	(Etc., to, say.)					
20	Young, David	7	8	Tailor.	3	
	2 BROCK, (Township.)					
21	Allan, Simon	21	7	Yeoman.		
22	Bolland, George	5	12	Gentleman.	2	
	(Etc., to, say.)					
31	Wilkinson, James	13	4	Esquire.		
32	Yates, Edward	1	5	Yeoman.	144	
	3 PARKDALE, (Town.)					
	4 ST. JAMES' WARD, (City of Toronto.) (Etc., to, say.)					
	26 YORK, (Township.)					
503	Arthur, Thomas	3	2 from Bay.	Yeoman.	1	
504	Bull, Peter	14	1 E. Yg'e. St.	Yeoman.		

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different townships, villages and urban wards in the County of York, including the City of Toronto, for the year 18 , as such Reports remained with me as Clerk of the Peace on the 25th day of October in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors for such county in Her Majesty's High Court of Justice.

Witness my hand, this

day of

, 18

E. F., Clerk of the Peace.

2.—THE GRAND JURY LIST.

FOR the High Court, (2) as selected in open Court, at a General Sessions of the Peace for the County, on the day of , 18 , being the first day of the first General Sessions of the Peace for the County, held next after the tenth day of November in the said year, by C. D., chairman of the said court, and the undersigned Selectors, pursuant to the directions of *The Jurors' Act*.

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or unincorporated Village or Hamlet, as in Jurors' Roll.	Township, Village or Ward.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Arthur, Thomas	3	2 From Bay,	York,	Yeoman.	503	1	Served accordingly.
2	Bolland, George	5	12	Brock,	Gentleman.	22	1	Omitted to attend altogether.
3	Young, David. (<i>Etc., to.</i>)	7	8	Albion,	Tailor.	20		
144	Yates, Edward.	1	5	Brock,	Yeoman.	32	1	Served accordingly.

These are to certify that on instant, being the first day of the first General Sessions of the Peace for the County of , next after the 10th day of November, in this year (5), the foregoing Grand Jury List for this County for the High Court for the year 18 , was in open Court duly selected and canvassed from the Roll of Grand Jurors to serve in Her Majesty's High Court of Justice for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands this

day of 18 .

C. D., Chairman.

E. F., Clerk of the Peace.

G. H., Warden.

Etc., Etc.

3—GRAND JURY PANELS FOR THE HIGH COURT OF JUSTICE. (2)

(a) No. 1.

PANEL of Grand Jurors returned upon a Precept from the Honourable G. H., the Honourable I. J., [etc.] Her Majesty's Justices in that behalf, tested the day of 18 , for the return of twenty-four of such Jurors for the sittings of the High Court of Justice (*or as the precept may require*), to be held for this County on the day of , 18 , as drafted on , the day of , 18 , at the office of the

Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or unincorporated Village or Hamlet as in Jury List.	Township, Village or Ward.	Additions.	No. on Lists.	Remarks.
1	Arthur, Thomas	3	2 From Bay,	York,	Yeoman.	1	
2	Bolland, George. (<i>Etc. to</i>)	5	12	Brock,	Gentleman.	2	
24	Yates, Edward.	1	5	Brock,	Yeoman.	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J. P.

M. N., J. P.

(b) No. 2. (4) etc.

4.—ROLL OF GRAND JURORS.

To serve in Her Majesty's Inferior Courts (2) of Criminal Jurisdiction. (3)

No. on Roll.	NAMES.	No. of Lot or House, as in report of Selectors.	Concession or Street or unincorporated Village or Hamlet as in report of Selectors.	Additions.	No on List.	Remarks.
	1 ALBION. (Township.)					
1	Acland, White.	16	2	Esquire.		Exempted having served on G. J. List, S. C. 18
2	Adams, William.	9	4	Gentleman.		
3	Eswald, David.	11	7	Merchant.		
4	Hamilton, Peter. (<i>Etc., to, say</i>)	4	6	Yeoman.		
20	Large, George.	7	8	Tailor.	3	
	2 BROCK. (Township.)					
21	Ash, Simon.	21	7	Yeoman.		
22	Bolland, George. (<i>Etc., to, say</i>)	5	12	Gentleman.	2	
31	Wilkins, James.	13	4	Esquire.		
32	Waters, Edward.	1	5	Yeoman.	144	
	3 MARKHAM. (Village.)					
	4 ST. JAMES' Ward, (City of Toronto.) (<i>Etc., to, say</i>)					
	26 YORK, (Township)					
503	Astor, Thomas.	3	2 From Bay.	Yeoman.	1	
504	Peel, Peter.	14	1 E. Yonge st.	Yeoman.		

6.—GRAND JURY PANELS FOR THE INFERIOR COURTS. (2)

(a) No. 1.

PANEL of Grand Jurors returned upon a Precept from S. B. H. and K. L. M., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the day of 18 , for the return of twenty-four of such Jurors for the General Sessions of the Peace to be held for this County on , the day of , 18 , as drafted on the day of , 18 , at the office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in presence of K. L., and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. on Panel.	NAMES.	No. of Lot or House as in Jury List.	Concession or Street or unincorporated Village or Hamlet as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Astor, Thomas..	3	2 From Bay.	York.	Yeoman.	1	
2	Bolland, George. (etc. to)	5	12	Brock.	Gentleman.	2	
24	Waters, Edward	1	5	Brock.	Yeoman.	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J. P.

M. N., J. P.

(b) No. 2. (4) etc.

7.—ROLL OF PETIT JURORS.

To serve in Her Majesty's High Court. (2) (3).

No. on Roll.	NAMES.	No. of Lot or House as in Report of Se- lectors.	Concession or Street, or unincorporated Village or Hamlet, as in Report of Se- lectors.	Additions.	No. on List.	Remarks.
	1 ALBION (Township)					
1	Parley, Peter.	16	2	Esquire.		
2	Alley, Simon.	21	7	Yeoman.	2	
3	Aikins, William.	25	3	Yeoman.		
4	Ashford, Thomas.	19	5	Yeoman.	3	
5	Adams, George.	5	5	Gentleman.	1	
6	Worth, David.	11	7	Merchant.	5	
7	Barclay, John.	9	2	Shoemaker.	5	
8	Cameron, William.	4	6	Yeoman.		
9	Daniels, George.	22	11	Yeoman.	6	Exempted
10	Small, William.	7	8	Tailor.	7	having
	(<i>etc., to say</i>)					served on
1060	Yarroll, George.	14		Baker.	288	P. J. List, S. C. 18
	2 BROCK. (Township.) &c.					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the different townships, villages and urban wards in the County of York, including the City of Toronto, for the year 18____, as such Reports remained with me as Clerk of the Peace on the 25th day of October of that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors for such county in Her Majesty's High Court of Justice.

Witness my hand, this day , 18 .

E. F., Clerk of the Peace.

8.—THE PETIT JURY LIST.

For the High Court, (2) as selected in open Court at a General Sessions of the Peace for the county, on _____, the _____ day of _____, 18____, being the first day of the first General Sessions of the

Peace for the county, held next after the 10th day of November in the said year, by C. D., Chairman of the said Court, and E. F., the Clerk of the Peace, pursuant to the directions of *The Jurors' Act*.

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street or unincorporated Village or Hamlet, as in Jurors' Roll.	Residence.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Adams, George..	5	5	Albion.	Gentleman.	5		
2	Alley, Simon....	21	7	Albion.	Yeoman.	2	1	Served
3	Ashford, Thomas	2	19	Albion.	Yeoman.	4		accord-
4	Barclay, John...	19	8	Albion.	Shoemaker.	7		ingly.
5	Worth, David...	9	5	Albion.	Merchant.	6		
6	Daniel, George..	11	16	Albion.	Yeoman.	9		Attend-
	(etc. to)							ed, but
188	Yarrol, George.	14	9	Albion.	Baker.	1060	1	made default.

These are to certify that on _____, the _____ day of _____ instant, being the first day of the first General Sessions of the Peace for the County of York next after the 10th day of November in this year (5), the foregoing Petit Jury List for this county for the High Court of Justice for the year 18____, was in open Court duly selected, and canvassed from the Roll of Petit Jurors to serve in Her Majesty's High Court of Justice for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands, this _____ day of _____, 18____.

C. D., Chairman.

E. F., Clerk of the Peace.

9.—PETIT JURY PANELS.

FOR THE HIGH COURT. (2)

(a) No. 1.

PANEL of Petit Jurors returned upon the Precept from the Honourable G. H., the Honourable J. J., etc., Justices of Her Majesty's High Court, tested the _____ day of _____, 18____, for the return of such Jurors, for theittings of the High Court of Justice (or as the precept may require) to be held for this county, on _____, the _____ day of _____, 18____, as drafted on _____ the _____ day of _____, 18____, at the office of the Clerk of the Peace in Toronto, by A. B.,

Esquire, Sheriff, in the presence of K. L. and M. N., Esquires Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. on Panel.	NAMES.	No. of Lot or House, as in Jurors' List.	Concession or Street, or unincorporated Village or Hamlet, as in Jurors' List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Alley, Simon. (<i>dec. to</i>)	21	7	Albion.	Yeoman.	2	
48	Yarrold, George'...	14	9	Albion.	Baker.	288	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J. P.

M. N., J. P.

(b) No 2, (4) &c.

10—ROLL OF PETIT JURORS.

To serve in Her Majesty's Inferior Courts (2) of Criminal and Civil Jurisdiction (3).

No. on Roll.	NAMES.	No. of Lot or House, as in Report of Selectors.	Concession or Street or unincorporated Village or Hamlet as in Report of Selectors.	Additions.	No. on List.	Remarks.
	1 ALBION (Township).					
1	Alford, Peter.	16	2	Esquire.		
2	Adams, Simon.	21	7	Yeoman.	2	
3	Addis, William.	25	3	Yeoman.		
4	Ashton, Thomas.	19	5	Yeoman.	3	
5	Aylwin, William.	5	5	Gentleman.	1	
6	Brooks, David.	11	7	Merchant.	5	
7	Burley, John.	9	2	Shoemaker.	4	
8	Catty, Peter.	4	6	Yeoman.		
9	David, George.	22	11	Yeoman.	6	Exempted,
10	Gule, George.	7	8	Tailor.	7	having
	(<i>dec., to, say</i>),					served on
1060	Yarrold, George	14	9	Baker.	288	P. J. List
						S. C., 18.
	2. BROCK (Township). <i>dec.</i>					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for

the different Townships, Villages and urban Wards in the County of York, including the City of Toronto, for the year 18 , as such Reports remained with me as Clerk of the Peace, on the 25th day of October in that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction for such County.

Witness my hand, this

day of , 18 .
E. F., Clerk of the Peace.

11.—THE PETIT JURY LIST.

For the Inferior Courts, (2) as selected in open Court at a General Sessions of the Peace for the County, on the day of , 18 , being the first day of the first General Sessions of the Peace for the County, held next after the 10th day of November in the said year, by C. D., Chairman of the said Court, and E. F., Clerk of the Peace, pursuant to the directions of *The Jurors' Act*.

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street or unincorporated Village or Hamlet as in Jurors' Roll.	Residence.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Aylwin, William	5	5	Albion.	Gentleman.	5		
2	Adams, Simon	21	7	Albion.	Yeoman.	2	1	Served accordingly.
3	Ashton, Thomas	19	5	Albion.	Yeoman.	4		
4	Burley, John	9	2	Albion.	Shoemaker.	7		
5	Brooks, David	11	7	Albion.	Merchant.	6		
6	Davis, George	22	11	Albion.	Yeoman.	9		
	(<i>etc., to</i>)							
288	Yarrold, George	14	9	Albion.	Baker.	1060	1	Attended but made default.

These are to certify that on , the day of instant, being the first day of the first General Sessions of the Peace for the County of York next after the 10th day of November in this year, (5) the foregoing Petit Jury List for the Inferior Courts for this County for the year 18 , was in open Court duly selected and canvassed from the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands, the

day of , 18 .
C. D., Chairman.
E. F., Clerk of the Peace.

12. —PETIT JURY PANELS FOR THE INFERIOR COURTS. (2) (a) No. 1.

PANEL of Petit Jurors returned upon a Precept from S. B. H., and K. L. and M. N., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the day of , 18 , for the return of of such Jurors, for the General Sessions of the Peace to be held for this County, on the day of , 18 , as drafted on the day of , 18 , at the office of the Clerk of the Peace in

Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or unincorporated Village or Hamlet, as in Jury List.	Township, Village, or Ward.	Additions.	No. on List.	Remarks.
1	Adams, Simon ...	21	7	Albion.	Yeoman.	2	
48	(<i>Etc., to.</i>) Yarrold, George...	14	9	Albion.	Baker.	288	

Witness our hands the day and year last above written.

A. B., Sheriff.
K. L., J. P.
M. N., J. P.

(b) No. 2.

PANEL of Special Jurors returned upon a writ of *Venire Facias Juratores*, out of the Queen's Bench Division of the High Court of Justice, in the case of N. O., Plaintiff, against P. Q., Defendant, tested (etc.) and returnable (etc.), as struck at the office of the Clerk of the Peace, in Toronto, on the day of 18 , by A. B., Esquire, Sheriff, in the presence of R. S., Attorney for the Plaintiff, and T. A., Agent for the Attorney of the Defendant (or in the presence of R. S., Attorney for the Plaintiff, the Defendant's Attorney, though served with the appointment, not appearing), pursuant to the directions of *The Jurors' Act*.

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or unincorporated Village or Hamlet, as in Jury List.	Township, Village, or Ward.	Additions.	No. on Grand Jurors' Rolls.	Remarks.
1	Abbott, William.	11	9	Albion.	Gentleman.	I.C. 31	From G. J. Roll for S.C. for year 18 . No. 10, the G. J. Roll for this year being exhausted.
2	Wilkins, James ..	13	4	Brock.	Esquire.		
16	(<i>Etc., to.</i>) Young, David ...	7	8	Albion.	Tailor.	S.C. 20	

Witness my hand the day and year last above written.

A. B., Sheriff.

(c) No. 3, (4) etc.

NOTES TO FORMS IN SCHEDULES A. AND B.

(1) *This Title to be placed at the head of each page or folio throughout the Book.*

(2) *So much of this Sub-Title as ends with this word, to be placed at the head of each page or folio of the Book appropriated to this class of entries.*

(3) *This Roll to be commenced on a new page or folio after leaving a sufficient number of leaves for the Jury List to be selected from the preceding Roll and the probable number of Panels that may be drafted from such List in the course of the year.*

(4) *The subsequent Panels following immediately may be commenced on the same page or folio on which the preceding one is closed.*

(5) *Or, if at a Special Sessions held under the authority of section 61 of this Act, say, "Of a Special General Sessions of the Peace for the County of York, held for that purpose under the warrant of the Lieutenant-Governor," the foregoing Grand or Petit Jury List, etc., was in open Court, etc. And note that the words "the said year" in the first part, and the words "this year" in the latter part of the form, mean the same year, the General Sessions being now held in December in each year. 46 V. c. 7, p. 84.*

SCHEDULE C. (Section 142.)

PAY List for Petit Jurors who have attended "the Sittings of the High Court" or "County Court and General Sessions of the Peace"
(as the case may be), held for the County of _____, begun on the _____ day of _____, and ended on the _____ day of _____ 18____.

NAME OF JURORS.	Number of miles travelled in coming to Court.	Check of Attendance.								Amount to be paid to Juror.		Juror's signature acknowledging receipt of money.
		1st day.	2nd day.	3rd day.	4th day.	5th day.	6th day.	7th day.	8th day.	\$	cts.	
John Just Charles Careless—	21	present	present	present	present	absent	present	present	present			

I, _____, Sheriff of the County of _____, do hereby certify to the Treasurer of the said County, that the above is to the best of my knowledge, a correct return of the number of miles travelled by each Juror in coming to the said Court; a true check of the number of days every such Juror attended the Court, and the just sum to which every Juror on the above list is entitled.

A. B., Sheriff.
46 V. c. 7, Sched. C.

6. PROCEDURE IN CIVIL MATTERS.

CHAPTER 53.

An Act respecting Arbitrations and References.

ACTIONS IN THE HIGH COURT, SS. 1-9.	MOTION TO SET ASIDE AWARD, S. 18.
ACTIONS IN THE COUNTY COURTS, SS. 10-12.	COSTS, SS. 19-30.
VOLUNTARY SUBMISSIONS, SS. 13-17.	MISCELLANEOUS PROVISIONS, SS. 31-51.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

ACTIONS IN THE HIGH COURT.

1. If at any time after the writ has issued in an action in the High Court, and before the action has been entered for trial, it is upon the application of either party made to appear to the satisfaction of the Court or a Judge, that the matters in dispute consist wholly or in part of matters of mere account, which cannot conveniently be tried in the ordinary way, the Court or Judge may, upon such application, decide the matter in a summary manner, or order the matter either wholly or in part, to be referred to the Master in Ordinary of the Supreme Court, or any Local Master, or to the Judge of a County Court, or to a Referee appointed by the parties who consents in writing to accept the reference, upon such terms as to costs and otherwise as the Court or Judge thinks reasonable; and the decision or order of the Court or Judge, as soon as given or made, or the report or certificate of such Master, County Judge or other Referee, when confirmed as hereinafter provided, may be enforced by the same process as the finding of a jury upon the matter referred. R. S. O. 1877, c. 50, s. 189.

2. If it appears to the Court or Judge that the allowance or disallowance of any particular items in the account depends upon a question of law proper to be decided by the Court, or upon a question of fact proper to be decided by a jury, the Court or Judge may direct a case to be stated or issues to be tried and the decision of the Court upon the case, and the finding of the jury upon the issues shall be taken and acted upon by the Master, County Judge, or other Referee, as conclusive. R. S. O. 1877, c. 50, s. 190.

Procedure on
reference.

3.—(1) Where an order is made under section 1, the Master, County Judge, or other Referee to whom the reference is directed, shall proceed therein; and the depositions of the witnesses examined upon the reference shall be taken down in writing, and shall, forthwith after the making of the report or certificate, together with the exhibits referred to therein, and the report or certificate, and upon payment of the fees of the Master, County Judge or Referee, be filed by the said Master, County Judge or Referee with the officer of the Court with whom the appearance by defendant is required to be entered, and no fee shall be paid for filing except for filing the report.

Filing of depo-
sitions, certi-
ficate, &c.

Report or
certificate to
become abso-
lute unless ap-
pealed from.

(2) The report or certificate shall, without an order confirming the same, become absolute at the expiration of fourteen days from the filing thereof, unless appealed from, but the Court or Judge may, under special circumstances, allow an appeal after the fourteen days. R. S. O. 1877, c. 50, s. 191 (1, 3).

Appeal from
report.

4. The appeal from a report or certificate referred to in the next preceding section of this Act may be heard and decided by a Judge sitting in Court, and the practice to be observed upon any such appeal shall in other respects be the practice now observed in appeals from the report of a Master; and the Judge may, upon the appeal, either amend the report or certificate in any way and to any extent that he may deem proper, or refer the same back to the Master, County Judge or other Referee, for amendment in whole or in part, with such directions as to law or fact as he may deem proper, or he may confirm the same. R. S. O. 1877, c. 50, s. 192.

Practice.

Amendment.

Transmission
of papers for
purposes of
appeal.

5. The officer of the Court with whom any depositions and report or certificate taken or made under the provisions of this Act have been filed, shall, for the purpose of such appeal or motion, within twenty-four hours after notice in writing delivered to him in his office for that purpose and payment of the necessary postage, enclose, seal up and transmit by post to the proper principal office in Toronto, addressed to the Registrar thereof, the depositions and report or certificate, together with all exhibits and papers filed therewith; and after the appeal or motion has been disposed of, any party thereto may in like manner procure the depositions, report or certificate, exhibits and papers, to be returned to the officer of the Court with whom they were originally filed. R. S. O. 1877, c. 50, s. 193.

Return of
papers.

Fees to officers
paid by
party.

6. Where the reference is made to the County Judge or the Master in Ordinary, or other officer who is paid by salary, such person shall be entitled to take and receive to his own use the same fees as the Local Masters not paid by salary are entitled to receive upon a reference in an action in the High Court. 50 V. c. 8, Sched.

7.—(1) In all actions involving the investigation of long accounts on either side, the Judge may, at and during the trial, direct a reference of all issues of fact to arbitration, or of such of the said issues and of the accounts and matters involved in all or any of such issues as he thinks fit, taking the verdict of the jury upon any issue or issues not so referred, and directing a verdict to be entered generally, on all or any of the issues, for either party, subject to such reference; or he may leave all or any issues of fact to be found by the jury, referring only the amount of damages to be ascertained; and if the parties agree upon the arbitrators (not more than three), the names of those agreed on shall be inserted in the order of reference, but if the parties cannot agree, the Judge shall name the arbitrator or arbitrators, and appoint all other terms and conditions of the reference to be inserted in the order; and the Judge directing any reference under this section may direct such reference in like manner as he has power to do under sections 1 and 2; and every arbitrator appointed under this section shall be subject to the provisions of the said sections, and shall have the powers expressed in section 9, and be subject to the same regulations as are mentioned and provided in regard to arbitrators in and by section 36 of this Act.

In actions involving long accounts, Judge may direct a reference as to part and a verdict as to other parts, &c., or leave the whole to the jury.

Appointment of arbitrators in referred cases.

(2) An appeal shall lie against an award or report made on a reference under this section, in the same way as if the reference had been made under section 1. R. S. O. 1877, c. 50, s. 195.

Appeal from award.

8. Upon an order of reference made under the provisions of section 7 of this Act, the depositions of the witnesses examined upon the reference shall be taken down in writing, and shall forthwith after the making of the award, together with the exhibits referred to therein, be filed by the arbitrator or arbitrators with the officer of the Court with whom the appearance of the defendant is required to be entered in the action or any of the actions in which the said order was made and no fee shall be paid for filing except for filling the award. R. S. O. 1877, c. 50, s. 196.

Upon reference under s. 7, depositions to be in writing and filed.

9.—(1) In actions in which it appears to the Court or a Judge that the amount of damages sought to be recovered by the plaintiff is substantially a matter of calculation, it shall not be necessary to assess the damages by a Judge or jury, but the Court or a Judge may direct that the amount for which final judgment is to be signed, shall be ascertained (if the proceedings are carried on in one of the offices at Toronto) by the Registrar of the proper Division of the High Court, or (if the proceedings are carried on in the office of a Deputy Clerk, Deputy Registrar or Local Registrar in any County) then by the Judge of the County Court of such County—or (if the proceedings are carried on in any County Court) then by the Clerk thereof; and the attendance of witnesses, and the

How the amount of damages shall be ascertained when the Court is of opinion that it is substantially a matter of calculation.

production of documents, before the Registrar or Judge or Clerk of the County Court, may be compelled by subpoena, in the same manner as before a Judge or jury upon an assessment of damages; and the Registrar or Judge, or Clerk of the County Court, respectively, may appoint the day for hearing the case, and may adjourn the inquiry from time to time, as occasion requires; and the Registrar, or Judge or Clerk of the County Court, as the case may be, shall endorse upon the rule or order for referring the amount of damages to him, the amount found by him, and shall deliver the rule or order with the endorsement to the plaintiff, and the like proceedings may thereupon be had, as to taxation of costs, signing judgment and otherwise, as upon the finding of a Judge or jury upon an assessment of damages.

Appeal.

(2) An appeal shall lie against a finding under this section in the same manner as from a report or certificate on a reference made under section 1. R. S. O. 1877, c. 50, s. 197.

ACTIONS IN COUNTY COURTS.

County Courts may order references as in High Court.

10. In a County Court, the Judge thereof may order a cause to be referred in the same manner, with the same effect and with the same powers, as may be exercised by the High Court in any cause therein. R. S. O. 1877, c. 50, s. 198.

Appeals and motion to set aside awards in County Courts.

11. In a County Court in which an order of reference is made, an appeal, in like manner and within the same time as in like cases is provided with regard to actions in the High Court, shall lie to the Judge of the County Court, who shall upon such appeal have the same powers as may be exercised by a Judge in like cases in the High Court; and upon any motion made to a County Court to set aside an award in cases in which an appeal does not lie, the Judge thereof shall have the same powers as may be exercised by the High Court or a Judge thereof in like cases. R. S. O. 1877, c. 50, s. 199.

Appeals to the Court of Appeal from decision of County Court Judge.

12. An appeal shall lie from any order, judgment, or decision of the County Court Judge to the Court of Appeal, and the proceedings and practice on the appeal as to staying proceedings, giving security and otherwise, shall be similar to the proceedings and practice relating to appeals from County Courts to the Court of Appeal. R. S. O. 1877, c. 50, s. 200.

VOLUNTARY SUBMISSIONS.

Every submission to arbitration may be made a rule of the High Court, unless the instrument forbids it.

13. Every agreement or submission to arbitration by consent, whether by deed, or in writing not under seal, may, on the application of any party thereto, be made a rule or order of the High Court, or of a County Court in actions pending in the County Court, unless the agreement or submission contains words purporting that the parties intended that it should not be made a rule or order of Court. R. S. O. 1877, c. 50, s. 201.

14. If in such agreement or submission it is provided that the same may be made a rule or order in one Division in particular of the High Court, it shall be made a rule or order in that Division only; and if, where there is no such provision, a case has been stated for the opinion of one Division of the High Court, and the Division is specified in the award, and the document authorizing the reference has not before the publication of the award to the parties been made a rule or order in Court, such document shall be made a rule or order in that Division only. R. S. O. 1877, c. 50, s. 202.

In what Division it may be made a rule.

15. Where in any case the document authorizing the reference is made a rule or order in any one Division of the High Court, no other Division of the Court shall have any jurisdiction to entertain any motion respecting the arbitration or award. R. S. O. 1877, c. 50, s. 203.

Other Divisions not to interfere.

16. In case of the appointment of any referee, arbitrator or umpire by, or in pursuance of any rule or order in a Division of the High Court or of any County Court, or Judge's order, or order before or at the trial in any action, or by or in pursuance of any submission or reference, not containing words purporting that the parties intended that the agreement should not be made a rule or order of the High Court, the power and authority of the referee, arbitrator or umpire shall not be revocable by any party to the reference, without the leave of the Court by which the rule or order was made, or which is mentioned in the submission, or by leave of a Judge of the Court; or in case no such Court is mentioned in the submission and there is no restriction of jurisdiction as aforesaid, then not without the leave of the High Court, or of a Judge thereof, and the referee, arbitrator and umpire shall proceed with the reference notwithstanding the revocation, and make an award, although the person making the revocation does not afterwards attend the reference; and the Court, or a Judge thereof, as the case may be, may, from time to time, enlarge the time for the referee, arbitrator or umpire to make the award. R. S. O. 1877, c. 50, s. 204.

Submission to arbitration if agreed to be made a rule of Court, not revocable without leave of Court.

Court may enlarge time for making an award.

17. In the case of a voluntary reference to arbitration, where it is agreed by the terms of the submission that there may be an appeal to the High Court, this Act shall apply and the reference shall be conducted and an appeal shall lie in the same manner as in case of a reference under section 1. R. S. O. 1877, c. 50, s. 205.

This Act to apply on voluntary reference and agreement that appeal may lie.

MOTIONS TO SET ASIDE AWARD.

18. In cases in which an appeal does not lie under this Act, a motion to set aside an award may be made in the same manner as heretofore. R. S. O. 1877, c. 50, s. 206.

Cases in which an appeal does not lie.

COSTS.

Interpreta-
tion.

19. In sections 20 to 30 inclusive of this Act,

“Arbitrator.”

“Arbitrator” shall include umpire and referee in the nature of an arbitrator; and

“Award.”

“Award” shall include umpirage and certificate in the nature of an award. R. S. O. 1877, c. 64, s. 1.

Fees to arbit-
rators not
being barris-
ters, archi-
tects, etc.

20. No arbitrator, who is not by profession and calling a barrister, solicitor, engineer, architect, or provincial land surveyor, shall be entitled to demand or take for his attendance and services as an arbitrator any greater fees than are hereinafter set down in Schedule A to this Act. R. S. O. 1877, c. 64, s. 2.

Fees to arbit-
rators being
barristers,
architects, etc.

21. No arbitrator, who is by profession and calling a barrister, solicitor, engineer, architect, or provincial land surveyor, shall be entitled to demand or take for his attendance and services as such arbitrator any greater fees than are hereinafter set down in Schedule B to this Act. R. S. O. 1877, c. 64, s. 3.

Fees to
witnesses.

22. No greater fees shall be taxed or allowed to any person called as a witness before an arbitrator than would be taxed and allowed to the same person in an ordinary action before a Court having jurisdiction over the subject matter of reference. R. S. O. 1877, c. 64, s. 4.

In case of
absence of
parties, or
postponement
at their re-
quest, costs of
meeting to be
taxed against
them.

23. Where, at a meeting of arbitrators, of which due notice has been given to the respective parties, no proceedings are taken in consequence of the absence of any party, or because a postponement is made by the arbitrators at the request of any party to some future day, the arbitrators shall make up an account of the costs, charges and disbursements of the meeting, including the proper charges for their own attendance and that of any witnesses, and of the counsel or solicitor of the party present, or not desiring the postponement, and shall charge the amount thereof, or of the disbursements against the party making default in attending, or at whose request the postponement is made (unless the arbitrators, under the special circumstances of the case, think that it would be unjust to charge the disbursements, or costs, charges and disbursements against him), and the last named party shall be bound to pay the same to the other party, whatever may be the event of the award and reference, and the arbitrators shall, in the award, make any direction or adjudication necessary for that purpose, and if such sum is payable by the party in whose favour the award is otherwise made, it may be set off against, and deducted from, any amount awarded in favour of that party. R. S. O. 1877, c. 64, s. 5.

24. Any party to an arbitration shall be entitled to have the costs thereof taxed, including the fees to the arbitrators, by one of the taxing officers of the Supreme Court, at Toronto; or in cases where the arbitrators determine the amount of the costs, or where there is no cause in Court, by the taxing officer to be named in a Judge's order, which may be granted for that purpose on a proper application on affidavit setting forth the facts. R. S. O. 1877, c. 64, s. 6.

Taxing costs on arbitrations.

25. The taxing officer shall in no case tax higher fees than are set down in this Act, but, upon reasonable grounds established before him upon affidavit, he may in taxation reduce the maximum mentioned in the schedules, but not below the minimum, having always regard to the length of the arbitration and to the value of the matter in dispute, and the difficulty of the questions to be decided; but he shall not tax more than one counsel fee to either party for any meeting of the arbitrators. R. S. O. 1877, c. 64, s. 7.

Taxing power restricted as to amounts.

26. The taxing officer may tax and allow a reasonable sum for the preparation and drawing up of the award. R. S. O. 1877, c. 64, s. 8.

Costs of award.

27. A revision of taxation may be granted upon application to the Court or a Judge, reasonable ground being shewn. R. S. O. 1877, c. 64, s. 9.

Revision of taxation.

28. The parties who refer any matter in difference between them to arbitration, whether any cause or action is pending between them or not, may agree, by writing, signed by them, or by making such agreement a part of their submission, to pay to the arbitrator or arbitrators, if more than one, such fees or sums for each day's attendance, or such gross sums for their taking upon themselves the burden of the reference and making the award, as the said parties see fit, and in every such case the fees and sums so agreed upon shall be substituted for those set down and authorized in the schedules to this Act, and shall be taxed and allowed by the taxing officer accordingly. R. S. O. 1877, c. 64, s. 10.

Agreement to refer may include fees to arbitrators.

29. If an arbitrator, after taking upon himself the burden of a reference, and after hearing the parties, their counsel and solicitors, or evidence (as the case may be), refuses or delays after the expiration of one month from the close of the proceedings before him, to make, execute and deliver his award upon the matters submitted, until a larger sum is paid to him for his fees than is by this Act permitted, and may be taxed, or receives for his award, or for his fees as arbitrator, any larger sum, he shall, for every such refusal or delay, forfeit and pay to the party who has demanded and was entitled to obtain the award, or who has paid

Provision in case unauthorized fees demanded by arbitrators.

to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained the award, treble the amount of the whole sum demanded by the arbitrator and to obtain payment whereof he has refused or delayed as aforesaid to make, execute or deliver his award, or treble the sum actually paid to him for his award, and received by him contrary to the provisions of this Act, such treble sum or sums to be recoverable with full costs in an action to be brought in the High Court. R. S. O. 1877, c. 64, s. 11.

Arbitrator to have action for fees taxed to him.

30. In all cases where an award is made, the arbitrator may maintain an action for his fees upon the award, after the same have been taxed, which taxation may be made at the instance of the arbitrator, upon notice to any party to the reference, against whom he may afterwards bring such action; and in the absence of an express agreement in respect thereof, the arbitrator may maintain such action, after taxation, against all the parties to the reference, jointly or severally. R. S. O. 1877, c. 64, s. 12.

MISCELLANEOUS PROVISIONS.

Copies of documents used as evidence may be filed in lieu of original.

31. The Master, County Judge, Referee or Arbitrator to whom a reference is made, upon the application of any party, and where no special reason appears to him to exist for filing any original book, paper or document as an exhibit, as hereinbefore provided, may, at the close of the reference, and before the said exhibits are so filed, allow a sworn copy of such original book, paper or document which has been given in evidence before him upon the reference, or of such portions thereof as he may deem material to be substituted as an exhibit in the place of the original book, paper or document. R. S. O. 1877, c. 50, s. 207.

Production of exhibits on appeals or motions to set aside awards.

32. Upon any appeal or motion to set aside an award, any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion any original book, paper or document in his possession which has been used as an exhibit or given in evidence upon the reference, and which has not been filed with the depositions. R. S. O. 1877, c. 50, s. 208.

Period within which application to set aside award must be made.

33.—(1) All applications, otherwise than by way of appeal, to set aside an award made on a compulsory reference under this Act, shall be made within one month after the filing of the award, but the Court or Judge may under special circumstances allow the application to be made after the said month; and if no such application is made or if no rule is granted thereon, or if a rule granted thereon is afterwards discharged, the award shall be final between the parties. R. S. O. 1877, c. 50, s. 209.

(2) In the computation of time in appealing against, or applying to set aside an award, the vacations shall not count. 50 V. c. 8, Sched.

34. Any award, report or certificate made on a compulsory reference may, by authority of a Judge, on such terms as to him seem reasonable, be enforced at any time after six days from the time of publication or filing, notwithstanding that the time for moving to set it aside or for appealing has not elapsed. When an award may, by order of a Judge be enforced, after the expiration of six days. R. S. O. 1877, c. 50, s. 210.

35. Upon a compulsory reference under this Act, or upon a reference by consent of parties where the submission is or may be made a rule or order of the High Court, and upon a reference under this Act, in a cause in a County Court made by rule or order of such Court, the referee or arbitrator may, if he thinks fit, and if it is not provided to the contrary, state his award as to the whole or any part thereof, in the form of a special case for the opinion of the Court, and where an action has been referred, judgment, if so ordered, may be entered according to the opinion of the Court. Arbitrator may make award in the form of a special case. Effect thereof. R. S. O. 1877, c. 50, s. 211.

36. The proceedings upon such arbitration as last aforesaid shall, except otherwise directed by this Act or by the submission or document authorizing the reference, be conducted in like manner and be subject to the same rules and enactments as to the power of the arbitrator and of the Court, the attendance of witnesses, the production of documents, enforcing or setting aside the award, or otherwise, as upon a reference made by consent under a rule or order of the High Court or of a Judge thereof. Proceedings before arbitrator, and his power to be as upon reference by consent. R. S. O. 1877, c. 50, s. 212.

37. In case, in a reference to arbitration, whether under this Act or otherwise, the submission is made a rule of the High Court or a County Court, the Court or a Judge may, at any time, and from time to time, remit the matters referred, or any or either of them, to the reconsideration of the arbitrator or arbitrators or umpire, as the case may require, upon such terms as to costs and otherwise as to the Court or Judge seem proper. When the reference is made a rule of Court, case may be remitted to the arbitrators for reconsideration. R. S. O. 1877, c. 50, s. 213.

38. Where the parties or any of the parties to a deed or instrument in writing agree that any existing or future differences between them or any of them shall be referred to arbitration, and any one or more of the parties so having agreed, or any person or persons claiming through or under him or them, nevertheless commences an action against the other party or parties or any of them, or against any person or persons claiming through or under him or them in respect of the matters so agreed to be referred, or any of them. then upon the application of the defendant or defendants, or any of them,

Staying proceedings where parties to any instrument agree to a reference.

after appearance and before statement of defence and upon the Court or Judge being satisfied that no sufficient reason exists why the matters ought not to be referred to arbitration according to the agreement as aforesaid, and that the defendant was, at the time of the bringing of the action and still is, ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration, the Court in which the action has been brought, or a Judge thereof, may make a rule or order staying all proceedings in the action on such terms as to costs and otherwise as to the Court or Judge seem proper; but the rule or order may, at any time afterwards, be discharged or varied as justice requires. R. S. O. 1877, c. 50, s. 214.

Provision for supplying the place of a single arbitrator or umpire dying, refusing to act, &c., when the reference does not shew an intention that his place should not be supplied.

A Judge to appoint another in default of the proper party.

39. If, in a case of arbitration, the document authorizing the reference provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator, or if any appointed arbitrator refuses to act, or becomes incapable of acting, or dies, and the terms of the document do not shew the intention that the vacancy should not be supplied, and the parties do not concur in appointing a new arbitrator, or if, where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator, such parties or arbitrators do not appoint an umpire or third arbitrator, or if any appointed umpire or third arbitrator refuses to act, or becomes incapable of acting, or dies, and the terms of the document authorizing the reference do not shew the intention that the vacancy should not be supplied, and the parties or arbitrators respectively do not appoint a new one, then and in every such instance any party may serve the remaining parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator; and if within seven clear days after service of the notice, no arbitrator, umpire or third arbitrator is appointed, a Judge of the High Court or of a County Court, if the case be in the County Court, may, upon summons, to be taken out by the party who served the notice, appoint an arbitrator, umpire or third arbitrator, as the case may be, and the arbitrator, umpire or third arbitrator, may act in the reference and make an award as if he had been appointed by consent of all parties. R. S. O. 1877, c. 50, s. 215.

When the reference is to two arbitrators and one party neglects to appoint, the other may, after certain notice, &c., appoint his arbitrator to act alone, unless the refer-

40. Where the reference is or is intended to be to two arbitrators, one appointed by each party, either party, in case of the death, refusal to act or incapacity of any arbitrator appointed by him, may substitute a new arbitrator, unless the document authorizing the reference shews an intention that the vacancy should not be supplied, and if on such a reference one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party has appointed an arbitrator, and has served the party

so failing with notice in writing to make the appointment, the party who has appointed an arbitrator may appoint such arbitrator to act as sole referee in the reference, and an award made by him shall be as binding on both parties as if the appointment had been by consent; but the Court or a Judge may revoke such appointment on such terms as seem just. R. S. O. 1877, c. 50, s. 216.

ence provides that the vacancy should not be supplied.

41. Where the reference is to two arbitrators and the terms of the document which authorizes it do not shew an intention that there should not be an umpire, or do not provide otherwise for the appointment of an umpire, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award, unless they are called upon by notice as aforesaid to make the appointment sooner. R. S. O. 1877, c. 50, s. 217.

Two arbitrators may always appoint an umpire, unless the reference forbids it.

42. The arbitrator acting under such document or compulsory order of reference as aforesaid, or under an order referring the award back, shall make his award under his hand, and (unless the document or order respectively contains a different limit of time) within three months after he has been appointed, and has entered on the reference or has been called upon to act by a notice in writing from any party, but the parties may by consent in writing enlarge the time for making the award. R. S. O. 1877, c. 50, s. 218.

Award to be made within a certain period.

43. The Court of which the submission, document or order is made a rule or order, or any Judge thereof, may, for good cause to be stated in the rule or order for enlargement, from time to time, enlarge the term for making the award, and if no other period of enlargement is stated in the consent or order for enlargement, it shall be deemed an enlargement for one month. R. S. O. 1877, c. 50, s. 219.

Period may be enlarged

44. In case an umpire has been appointed, and the arbitrators have allowed the time to expire without making an award, or have delivered to either party or to the umpire a notice in writing stating that they cannot agree, the umpire may enter on the reference in lieu of the arbitrators. R. S. O. 1877, c. 50, s. 220.

When the umpire shall act.

45. Where an award made on any submission, document or order of reference, directs that possession of lands or tenements capable of being the subject of an action for the recovery of land shall be delivered to any party forthwith or at a future time, or that any party is entitled to the possession of the lands or tenements, the Court of which the document authorizing the reference is made a rule or order, may order any party to the reference who is in possession of the lands or tenements, or any person in possession of the same claiming under or put in possession by him since the making of

When the award directs possession of land to be delivered the Court may order such delivery and enforce it as a judgment.

the document authorizing the reference, to deliver possession of the lands to the party entitled thereto pursuant to the award, and the rule or order to deliver possession shall have the effect of a judgment against every party or person named in it, and execution may issue and possession shall be delivered by the Sheriff as on a judgment. R. S. O. 1877, c. 50, s. 221.

Issue of sub-
pœnas to wit-
nesses to at-
tend before
arbitrators.

46. In case of a reference by rule, order or submission, as aforesaid, any party thereto may, without leave or order, obtain and issue from and out of the Court by which the rule or order was made, or the Court mentioned in the agreement, or if no Court is mentioned in the submission and there is no restriction of the jurisdiction as aforesaid, then from and out of the High Court, a subpœna, commanding the attendance and examination of any witness, and also the production of any document to and before the referee, arbitrator, arbitrators or umpire, and at the time and place mentioned in the subpœna. R. S. O. 1877, c. 50, s. 222.

Neglect to
attend to be a
contempt of
Court.

47. If, in addition to the service of the subpœna, an appointment of the time and place of attendance in obedience thereto, signed by the referee or one at least of the arbitrators, or by the umpire, before whom the attendance is required, is served, either together with or after the service of the subpœna, the disobedience of the subpœna shall be deemed a contempt of Court, but the person whose attendance is required shall be entitled to the like conduct money, and payment of expenses, and for loss of time as for and upon attendance at a trial; and no person shall be compelled to produce, under the subpœna, any writing or other document that he would not be compelled to produce at a trial, or to attend for more than two consecutive days, to be named in the subpœna. R. S. O. 1877, c. 50, s. 223.

Witnesses to
be sworn.

48. The witnesses upon a reference shall, unless the parties otherwise agree or consent, be examined upon oath, and the referee, arbitrator or umpire, or any one arbitrator, shall administer an oath to the witnesses, or take their affirmations in cases where an affirmation is allowed by law instead of an oath. R. S. O. 1877, c. 50, s. 224.

Commissions
to examine
witnesses.

49. In case a party to a reference by rule, order or submission as aforesaid, is desirous of having and submitting therein to and before the referee, arbitrator, or umpire, the testimony of any aged or infirm person resident within Ontario, or of a person who is about to withdraw therefrom, or who is residing without the limits thereof, the Court by which the rule or order was made, or a Judge thereof, or the Court mentioned in the submission or agreement, or a Judge thereof, or if no Court is mentioned in the submission or agreement, then the High Court, or a Judge there-

of, may upon the motion of the party, and upon hearing the other parties to the reference, order the issue of a commission under the seal of the said proper Court in that behalf, to a commissioner, to take the examination of such person. R. S. O. 1877, c. 50, s. 225.

50. Due notice of the commission shall be given to the adverse party, to the end that he may cause the witness to be cross-examined. R. S. O. 1877, c. 50, s. 226.

Notice of
commission to
be given.

51. In case the examination of the witness taken without the limits of Ontario, pursuant to the commission, is proved by an affidavit of the due taking of the examination, sworn before and certified by the mayor or chief magistrate of the city or place where the same has been taken, and in case the commission, with the examination and affidavit thereto annexed, is returned to the Court from which the commission issued, close under the hand and seal of one or more of the Commissioners, the same shall *prima facie* be deemed to have been duly taken, executed and returned, and shall be received as evidence in the matter of the reference by and before the referee, arbitrator, or umpire, unless it is made to appear to the Court to which the examination is returned, or to a Judge thereof, that the same was not duly taken, or unless it is made to appear to and before the said referee, arbitrator or umpire that the deponent is of sound mind, memory and understanding, and living within Ontario, at the time the examination is offered in evidence. R. S. O. 1877, c. 50, s. 227.

Return of
commission.

SCHEDULE A.

(Section 20.)

For every meeting where the cause is not proceeded with, but an enlargement or postponement is made at the request of any party, not less than.....	\$2 00
Nor more than.....	4 00
For every day's sitting, to consist of not less than six hours, not less than.....	5 00
Nor more than.....	10 00
For every sitting not extending to six hours (fractional parts of hours being excluded) where the arbitration is actually proceeded with, for each hour occupied in such proceedings, at the rate of not less than.....	1 00
Nor more than.....	1 50

R. S. O. 1877, c. 64, Sched. A.

SCHEDULE B.

(Section 21.)

For every meeting where the cause is not proceeded with, but an enlargement or postponement is made at the request of any party, not less than.....	\$4 00
Nor more than.....	8 00
For every day's sitting, to consist of not less than six hours, not less than.....	10 00
Nor more than.....	20 00
For every sitting not extending to six hours (fractional parts of hours being excluded) where the arbitration is actually proceeded with, for each hour occupied in such proceedings, at the rate of not less than.....	2 00
Nor more than.....	3 00

R. S. O. 1877, c. 64, Sched. B.

CHAPTER 54.

An Act respecting Lunatics.

INTERPRETATION, s. 1.	SCOPE OF INQUIRY, s. 9.
JURISDICTION, s. 2.	PROTECTION OF PROPERTY, ss. 10-16.
INQUISITION BY COMMISSION, ss. 3, 4.	APPEAL, s. 17.
INQUIRY WITHOUT COMMISSION, ss. 5-8.	COSTS, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation "lunatic." 1. The word "lunatic" in this Act shall include an idiot or other person of unsound mind. R. S. O. 1877, c. 40, s. 57.

Jurisdiction over lunatics and their estates. 2. In the case of lunatics and their property and estates the jurisdiction of the High Court shall include that which in England is conferred upon the Lord Chancellor by a Commission from the Crown, under the Sign Manual. R. S. O. 1877, c. 40, s. 58.

INQUISITION BY COMMISSION.

Traverse of inquisition of lunacy. 3.—(1) Where a Commission has been issued and an inquisition thereupon returned into Court, by which a person is found lunatic, in case any one entitled to traverse the inquisition de-

sires to do so, he may, within three months from the day of the return and filing of the inquisition, present a petition for that purpose to the Court, and the Court shall hear and determine the petition subject to the following provisions :

(2) In every order giving effect to the petition, the Court shall limit a time not exceeding six months from the date of the order, within which the person desiring to traverse, and all other proper parties, shall proceed to the trial of the traverse ; but the Court may under the special circumstances of any case, verified by affidavit, and upon a petition being presented for that purpose, allow the traverse to be had or tried after the time limited ; and in such special case the Court may make such orders as seem just. Time to be limited.

(3) The trial may be ordered to take place in any Court of Record in Ontario, with the aid of a jury, according to the circumstances of the case and the situation of the parties. May be tried in any Court of Record.
R. S. O. 1877, c. 40, s. 59 (1-3).

(4) The Court may order that the person to traverse, if he is not the party who has been found lunatic, shall, within one month after the date of the order, file, with such officer as the Court may appoint, a bond, with one or more sureties, in favour of the Accountant, or other officer appointed by the Court, and conditioned for all proper parties proceeding to the trial of the traverse within the time limited. The bond before the filing thereof shall be approved of and certified to be sufficient by the Judge of the County Court of the County in which the parties reside, or by one of the Masters of the Supreme Court of Judicature. R. S. O. 1877, c. 40, s. 59 (4) ; 50 V. c. 8, Sched. What security the traverser shall give.

(5) Every person who does not present his petition, or who neglects to give the security, or who does not proceed to the trial of the traverse within the times respectively limited therefor, and the heirs, executors and administrators of every such person, and all others claiming through him, shall be absolutely barred of the right of traverse. R. S. O. 1877, c. 40, s. 59 (5). When the traverser barred.

4. The Court if dissatisfied with the verdict returned upon a traverse, may order a new trial, or new trials, as in other cases. New trials may be granted.
R. S. O. 1877, c. 40, s. 60.

INQUIRY WITHOUT COMMISSION.

5. Instead of issuing a Commission of Lunacy the High Court may, with or without the aid of a jury (which the Court or a Judge thereof may cause to be empanelled as in other cases) hear evidence and inquire into and determine upon the alleged lunacy, or may send the inquiry to any Court of Record ; but the alleged lunatic shall have a right in such cases to demand that the inquiry be submitted to a jury. R. S. O. 1877, c. 40, s. 61. Inquiry as to lunacy. Alleged lunatic may require a jury.

No traverse allowed but new trial may be granted by Court.

6. Where such inquiry is had, no traverse shall be allowed, but the Court, if dissatisfied with the finding of a jury, may, at the instance of any party who would be entitled to traverse an inquisition under commission of lunacy, direct a new trial or new trials from time to time upon application therefor made to the Court within three months from the time the verdict is rendered, or such further time as the Court, under special circumstances, permits, and subject to such directions and upon such conditions as to the Court seem proper, and the Court may order such new trial to be had before the same Court in which the verdict was rendered or before any other Court. R. S. O. 1877, c. 40, s. 62.

Alleged lunatic may be examined openly or privately as Judge directs.

7. On every such inquiry the alleged lunatic, if he is within the jurisdiction of the Court, shall be produced, and shall be examined at such times and in such manner either in open Court or privately before the jury retire to consult about their verdict as the presiding Judge may direct, unless the Court ordering the inquiry has, beforehand, by order, dispensed with the examination. R. S. O. 1877, c. 40, s. 63.

Declaration of lunacy without commission.

Proceedings in lieu of traverse when no commission issued.

8. The High Court or a Judge thereof may, on sufficient evidence, declare a person a lunatic without the delay or expense of issuing a commission to inquire into the alleged lunacy, except in cases of reasonable doubt; and any person who might traverse an inquisition to the same effect may move against the order containing the declaration, or may appeal therefrom, as the case requires; and the right so to move or appeal shall, as to time, be subject to the same rules as the right to traverse. R. S. O. 1877, c. 40, s. 65.

SCOPE OF INQUIRY.

Question to be tried.

9. Every inquiry, under a Commission of Lunacy, or before any Court of Record, shall be confined to the question, whether or not the person who is the subject of inquiry is, at the time of the inquiry, of unsound mind and incapable of managing himself or his affairs, and the verdict rendered by a jury shall, in every case, be returned to the Court, certified by the Judge before whom the inquiry has been had, and shall be final as to the question on the inquiry, unless the same is set aside. R. S. O. 1877, c. 40, s. 64.

PROTECTION OF PROPERTY.

Property of Lunatics.

10. In order to afford due protection to the property of lunatics, the following provisions shall in every case be observed:

The committee to file an inventory of present property.

1. The committee of the estate shall, within six months after being appointed, file in the office of the Master to whom the matter is referred, or of such officer as may be appointed

for that purpose, a true inventory of the whole real and personal estate of the lunatic, stating the income and profits thereof, and setting forth the debts, credits and effects of the lunatic, so far as the same have come to the knowledge of the committee;

2. If any property belonging to the estate is discovered after the filing of an inventory, the committee shall file a true account of the same from time to time, as the same is discovered;

Also, of after discovered property.

3. Every inventory shall be verified by the oath of the committee; and

To be verified on oath.

4. The committee of the estate shall give two or more responsible persons as sureties, in double the amount of the personal estate, and of the annual rents and profits of the real estate, for duly accounting for the same once in every year, or oftener if required by the Court, and for filing the inventory aforesaid; and the security shall be taken by bond in the name of the Accountant or other officer appointed by the Court for that purpose, and the same shall be filed in the office of the Accountant or other officer so appointed. R. S. O. 1877, c. 40, s. 66.

Security to be given by the committee.

11. Where the personal estate of a lunatic is not sufficient for the discharge of his debts, the following steps may be taken:

When estate not sufficient to pay debts.

1. The committee of his estate shall petition for authority to mortgage, lease or sell so much of the real estate as may be necessary for the payment of the debts;

Committee to apply for leave to mortgage or sell, &c.

2. The petition shall set forth the particulars and amount of the estate, real and personal, of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate;

What the petition is to contain.

3. The Court shall, by one of the Masters of the Supreme Court of Judicature, or otherwise, inquire into the truth of the representations made in the petition, and hear all parties interested in the real estate;

Truth of petition to be inquired into.

4. If it appears to the Court that the personal estate is not sufficient for the payment of debts, and that the same has been applied to that purpose as far as the circumstances of the case render proper, the Court may order the real estate or a sufficient portion of it to be mortgaged, leased or sold either by the committee or otherwise;

If personal estate insufficient, real estate may be disposed of.

5. The Court shall direct the committee to discharge the debts out of the money so raised, and the Court may order the committee to execute conveyances of the estate, and to give security for the due application of the money, and to do such other acts as may be necessary in such manner as the Court may direct; and

Debts to be paid out of the proceeds.

Ratably and without preference.

6. In the application of moneys so raised, the debts shall be paid in equal proportion without giving preference to those secured by sealed instruments. R. S. O. 1877, c. 40, s. 67.

If effects not sufficient to maintain the lunatic, his real estate may be applied.

12. Where the personal estate, and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family, or for the education of his children, an application may be made by the committee, or by a member of the family of the lunatic, that the committee be authorized or directed to mortgage or sell the whole or part of the real estate as may be necessary; upon which the like reference and proceedings shall be had, and a like order made, as for the payment of debts. R. S. O. 1877, c. 40, s. 68.

Surplus sums how to be applied or disposed of.

13. In case of a mortgage, lease or sale being made, the lunatic and his heirs, next of kin, devisees, legatees, executors, administrators and assigns shall have the like interest in the surplus which remains of the money raised as he or they would have in the estate, if no mortgage, lease or sale had been made; and the money shall be of the same nature and character as the estate mortgaged, leased or sold; and the Court may make such orders as are necessary for the due application of the surplus. R. S. O. 1877, c. 40, s. 69.

Where a lunatic is trustee or mortgagee his committee may act, and how far.

14. Where a lunatic is seised or possessed of real estate, by way of mortgage, or as a trustee for others in any manner, the committee may apply to the Court for authority to convey such real estate to the person entitled thereto, in such manner as the Court may direct; and thereupon the like proceedings shall be had as in the case of an application to sell the real estate; and the Court, upon hearing all the parties interested, may order a conveyance to be made; and on the application of any person entitled to a conveyance, the committee may be compelled by the Court, after hearing all parties interested, to execute the conveyance. R. S. O. 1877, c. 40, s. 70.

Instruments executed by the committee to be valid.

15. Every conveyance, mortgage, lease and assurance made by the committee under direction of the Court, pursuant to any of the provisions of this Act, shall be as valid as if executed by the lunatic when of sound mind. R. S. O. 1877, c. 40, s. 71.

Specific performance of contracts made by lunatic.

16. The Court may compel the specific performance of any contract made by a lunatic while capable of contracting, and may direct the committee to execute all necessary conveyances for the purpose; and the purchase money, or so much thereof as remains unpaid, shall be paid to the committee or otherwise as the Court directs. R. S. O. 1877, c. 40, s. 72.

APPEAL.

Appeal.

17. An order made by a Judge in a matter of lunacy shall be subject to appeal to a Divisional Court and to the Court of

Appeal within the same times and under the same conditions as in other cases in the High Court. R. S. O. 1877, c. 40, s. 73.

COSTS.

18. The Court may order the costs, charges and expenses of and incidental to a petition for a commission of lunacy or to any inquiry, inquisition, issue, traverse, order, direction, conveyance or other proceeding in lunacy, to be paid by the party or parties presenting the petition or prosecuting the same or such inquiry or other proceeding in lunacy, or by the party or parties opposing the same, or out of the estate of the lunatic, or alleged lunatic, or partly in one way and partly in another. R. S. O. 1877, c. 40, s. 74.

By whom the Court may order costs to be paid.

CHAPTER 55.

An Act respecting Actions of Replevin.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Replevin Act.*" R. S. O. Short title. 1877, c. 53, s. 1.

WHEN GOODS REPLEVIABLE.

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained under circumstances in which by the law of England, on the 5th day of December, 1859, replevin might have been made, the person complaining of such distress as unlawful may bring an action of replevin, or where such goods, chattels, property or effects have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery of the goods, chattels, property or effects, and for the recovery of the damages sustained by reason of the unlawful caption and detention, or of the unlawful detention, in like manner as actions are brought and maintained by persons complaining of unlawful distresses. R. S. O. 1877, c. 53, s. 2.

When goods may be replevied.

Goods seized
not to be re-
plevied by
parties.

3. No party to an action or proceeding, in any Court, shall replevy or take out of the custody of the Sheriff, Bailiff, or other officer, any personal property seized by him under process against such party. R. S. O. 1877, c. 53, s. 3.

REPLEVIN IN COUNTY COURTS.

In cases under
\$200 action
may be
brought in
County
Court.

4. In case the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$200, and in case the title to land is not brought in question, the action may be brought in the County Court of any County wherein the goods or other property or effects have been distrained, taken or detained. R. S. O. 1877, c. 53, s. 4.

REPLEVIN IN DIVISION COURTS.

In cases under
\$60, action
may be
brought in
Division
Court.

5.—(1) In case the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$60, and in case the title to land is not brought in question, the action may be brought in the Division Court for the Division within which the defendant or one of the defendants resides or carries on business, or where the goods or other property or effects have been distrained, taken or detained. *See Cap. 51, s. 72.*

Procedure in
Division
Court.

(2) The matter shall then be disposed of without formal pleadings, and the powers of the Courts and officers, and the proceedings generally shall be, as nearly as may be, the same as in other cases which are within the jurisdiction of Division Courts. R. S. O. 1877, c. 53, s. 5.

CHAPTER 56.

An Act respecting Actions of Dower.

SHORT TITLE, s. 1.

WHEN ACTION NOT MAINTAINABLE, s.

2.

ASSIGNMENT OF DOWER WITHOUT
ACTION, ss. 3, 4.TENANT SERVED WITH WRIT TO NOTIFY
LANDLORD, s. 5.

MODE OF ESTIMATING DAMAGES, s. 6.

ASSIGNMENT OF DOWER AFTER JUDG-
MENT, ss. 7-20.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. This Act may be cited as "*The Dower Procedure Act.*" Short title.
R. S. O. 1877, c. 55, s. 1.

2. No action of dower shall be maintained, in case the dowress has joined in a deed to convey the land or to release her dower therein to a purchaser for value, though the acknowledgment required by law at the time may not have been made or taken, or though there may have been an informality in the making, taking or certifying such acknowledgment. R. S. O. 1877, c. 55, s. 2.

Case where action not maintainable.

3. The tenant of the freehold may before action serve upon the dowress a notice in writing that he is willing to assign dower in the land (describing it) out of which she is entitled to dower, and may thereafter apply to the High Court, or to a Judge thereof, for an order directing that a writ shall issue for the assignment of dower; and a writ therefor may thereupon issue, and the like proceedings may be had thereon as upon such a writ sued out after judgment in an action of dower. R. S. O. 1877, c. 55, s. 3.

Tenant may notify dowress of desire to assign her dower; procedure thereon.

4. The dowress and the tenant of the freehold may, by any instrument under their hands and seals, executed in the presence of two witnesses, agree upon the assignment of dower, or upon a yearly sum, or a gross sum to be paid in lieu and satisfaction of dower, and a duplicate of the instrument, proved by the oath of one of the subscribing witnesses, shall be registered in the proper registry office, and shall entitle

Dowress and tenant may agree upon assignment, etc.

the dowress to hold the land so assigned to her, against the assignor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in any Court having jurisdiction to the amount, the annual or other sum agreed to be paid to her by the tenant of the freehold; and the instrument so registered shall be a lien upon the land for such yearly or other sum, and shall be a bar to any action or proceeding by the dowress for dower in the lands mentioned therein. R. S. O. 1877, c. 55, s. 5.

Tenant in possession, not also tenant of freehold to notify landlord.

5. Every tenant in possession, who is not also tenant of the freehold, and who is served with a writ under this Act, shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years' improved rent of the premises in the possession of the tenant, to the person under whom he entered into possession, to be recovered by action in the High Court. R. S. O. 1877, c. 55, s. 13.

Penalty.

Mode of estimating damages for detention of dower, etc.

6. In estimating damages for the detention of dower or the yearly value of the lands, for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the lands by the husband, or after the death of the husband, shall not be taken into account; but the damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of the land in the particular locality. R. S. O. 1877, c. 55, s. 28.

ASSIGNMENT OF DOWER AFTER JUDGMENT.

Effect of judgment for plaintiff.

7. After judgment has been rendered in the plaintiff's favour to recover dower, whether with or without costs or damages, she shall be entitled to sue out a writ of assignment of dower, directed to the Sheriff of the County in which the lands lie, and the writ shall set forth the lands out of which the plaintiff is to recover dower. R. S. O. 1877, c. 55, s. 30.

Sheriff to appoint Commissioners to admeasure the dower, etc.

8. The Sheriff, on receipt of the writ, shall by writing under his seal of office, appoint two resident freeholders of his County who are rated upon the assessment roll for real estate of a value not less than \$2,000 each, and a licensed Provincial Land Surveyor, and each of whom would in other respects be eligible to serve as a juror between the parties named in the said writ, to be commissioners to admeasure the dower, and the Sheriff shall, in such writing, set out a copy of the writ of assignment, and shall name therein a day on or before which the commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them. R. S. O. 1877, c. 55, s. 31.

9. In case of the death of, or refusal by, any or all of the commissioners so appointed, the Sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of any who may die or refuse. Provision in case of death, etc., of Commissioners. R. S. O. 1877, c. 55, s. 32.

10. Every commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an affidavit in the form or to the effect following; and the said commissioners shall annex to their report the affidavits sworn by them, and return them to the Sheriff: Oath of Commissioners.

"I, _____, do swear that I am not of kin to the plaintiff (*naming her*) or to the defendants (*naming him or them*), or in any way interested in the lands out of which the assignment of dower is to be made by me, and that I will honestly, impartially, and to the best of my skill and ability, execute and perform the duties imposed upon me by the appointment of _____, Esquire, Sheriff of the County of _____, as a Commissioner for the admeasurement of dower between the said plaintiff and the said defendants according to law." Form of oath.

R. S. O. 1877, c. 55, s. 33.

11. After taking and subscribing such affidavit, the commissioners and each of them shall, for all purposes in the fulfilment of the duties by law required of them, be considered as officers of the Court, and shall be entitled to the same immunities and protection and be subject to the same liabilities and proceedings as a Sheriff, in the discharge of his duty. Commissioners when sworn to be officers of the Court. R. S. O. 1877, c. 55, s. 34.

12. It shall be the duty of the commissioners : Their duties.

1. To admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monuments, one-third of the lands and premises mentioned in the writ of assignment, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part of the lot or parcel of land and premises mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on such lands and premises ; To admeasure dower by bounds, etc. ;

2. To ascertain and determine what permanent improvements have been made upon the lands and premises since the death of the plaintiff's husband, or since the time her husband alienated the same to a purchaser for value, and if it can be done they shall award the dower out of such part of the lands as do not embrace or contain such permanent improvements ; but if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted, or assigned to the plaintiff in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements ; ascertain improvements, etc. ;

3. If from peculiar circumstances, such as there being a mill or mills or manufactory upon the land, the commissioners cannot make a fair and just assignment of dower by metes and, where they cannot assign bounds, etc., to assess a yearly sum.

and bounds, they shall assess a yearly sum of money, being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon, and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the Sheriff they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same, such evidence to be reduced to writing and taken upon oath (which any one of the commissioners is hereby authorized to administer) and to be subscribed by the witness examined;

Evidence
on oath.

Such sum to
be a lien on
lands, unless
otherwise di-
rected.

Report of
Commission-
ers.

4. Such yearly sum shall be a lien upon the lands mentioned in the writ of assignment, unless the commissioners specially direct otherwise, and make the same issuable and payable out of some specific portion of the lands, and the same shall be recoverable by distress as for rent or by action against the tenant of the freehold for the time being;

5. The report of the commissioners shall be in writing, subscribed by them and directed to the Sheriff, and shall contain a full statement of their proceedings, and where the dower is assigned by metes and bounds, shall distinctly point out and describe the same, and the posts, stones or other monuments designating the boundaries, and for the purpose of planting and marking the posts, stones or monuments, the commissioners may, if necessary, employ chain-bearers and labourers. R. S. O. 1877, c. 55, s. 35.

Sheriff may
enlarge time
for report.

Report to be
returned to
Deputy Clerk
of Crown.

13. The Sheriff may, in his discretion, upon the request of the commissioners, enlarge the time for making their report, for not more than ten days, and he shall, within twenty-four hours after the receipt thereof, endorse thereon the day and hour of the receipt, and he shall then forthwith return the writ of admeasurement of dower, together with the report and all papers annexed thereto, to the office wherein the action was commenced and carried on. R. S. O. 1877, c. 55, s. 36.

Either party
may appeal
from report.

Order of Court
thereon.

14. Either party may, within a month from the filing of the Sheriff's return to the writ of assignment, or within such further time as a Court or Judge may under special circumstances allow, appeal from the report of the commissioners to a Judge in Court, upon grounds apparent on the report and papers filed therewith, or may apply to set aside the same, upon such other grounds verified by affidavit as the Court may see fit, every such ground being set forth in the notice served, and the Judge may vary or amend the report in any way and to any extent that he may deem proper, or refer the same back to the commissioners for amendment in whole or in part, with such directions as to law or fact as he may deem proper, or he may confirm the same, or may annul and set aside the report and may appoint three new commissioners or direct that the Sheriff shall do so, and the new commissioners shall have the same powers and execute the same duties, and be subject to the

same conditions and responsibilities as are in that behalf hereinbefore expressed, and the report of the new commissioners shall be treated as if no other report had been previously made, and shall be dealt with and proceeded upon accordingly. R. S. O. 1877, c. 55, s. 37.

15. If the report is moved against upon the ground of misconduct or fraud on the part of the commissioners, the Court may, in its discretion, make them parties to the proceeding and if wilful misconduct or fraud be established in the opinion of the Court, the report may be set aside and the commissioners be adjudged to pay to the parties injured all the costs which have been incurred and have been rendered useless by such misconduct or fraud, and all the costs of the proceeding to set aside the report; and the payment may be enforced by the like process and proceedings as are or may be in use to compel a Sheriff to pay costs of any summary proceeding against him. R. S. O. 1877, c. 55, s. 38.

Effect of report being appealed from for misconduct, etc.

16. The appeal or application may be dismissed with or without costs, and the Court may order the party at whose instance, or on whose complaint or representation, the commissioners may have been made parties to the proceeding to pay the commissioners their costs; and if the appeal or application is dismissed, or if the report is not appealed from or moved against within the proper time, the report shall thenceforth be final and conclusive on all parties to the action of dower, and a copy of the report, certified by the Registrar under the seal of the Court, shall be registered in the proper Registry Office for which service the Registrar of deeds shall be entitled to receive \$1. R. S. O. 1877, c. 55, s. 39.

Costs of appeal.

Copy of report when final to be registered.

17. After such registration the plaintiff shall be entitled to sue out a writ directed to the proper Sheriff, commanding him to put her into possession of the lands and premises assigned and admeasured to her for her dower, and to levy all such costs as by the judgment and any order of Court, or either of them, have been awarded to her against the defendant. R. S. O. 1877, c. 55, s. 40.

Plaintiff may after registration sue out writ of possession.

18.—(1) In case it is desired by either party to produce any witnesses before the commissioners, such party may, on application to the Court or to a Judge, on affidavit that the evidence of such witness is necessary, obtain an order commanding the attendance of the witness before the commissioners, and if in addition to the service of the order, an appointment of time and place of attendance in obedience thereto, signed by one of the commissioners, be served on the person whose evidence is required, either with or after the service of the order, non-attendance shall be deemed a contempt of Court, and shall be punishable accordingly.

Mode of procuring attendance of witnesses before Commissioners.

Payment of witnesses.

(2) The person so required to attend shall be entitled to be paid the same fees, allowance and conduct money as if he had been subpoenaed as a witness in an ordinary action, but no witness shall be obliged to attend more than two consecutive days. R. S. O. 1877, c. 55, s. 42.

Commissioners' fees.

19. The commissioners shall be entitled to receive from the plaintiff the sum of \$4 for each day's attendance, not, however, to exceed two, and may also charge at the rate of twenty cents for every hundred words for drawing up their report, and ten cents for every hundred words of each copy furnished by them to either party. R. S. O. 1877, c. 55, s. 43.

By whom costs to be paid.

20. The plaintiff shall pay the costs of suing out, and the costs of the commissioners in executing the writ of assignment of dower, and making the report thereof, but each party shall pay his own costs of witnesses, or of counsel or solicitor attending before the commissioners. R. S. O. 1877, c. 55, s. 44.

CHAPTER 57.

An Act respecting Actions of Libel and Slander.

INTERPRETATION, s. 1.

WHETHER A PUBLICATION AMOUNTS TO A LIBEL, A QUESTION FOR THE JURY, s. 2.

AVERMENTS IN ACTIONS FOR LIBEL OR SLANDER, s. 3.

APOLOGY MAY BE SHEWN IN MITIGATION OF DAMAGES, s. 4.

PLEA OF PUBLICATION WITHOUT MALICE OR GROSS NEGLIGENCE WITH AN APOLOGY, s. 5.

PAYMENT INTO COURT BY WAY OF AMENDS, s. 6.

PRIVILEGED REPORTS, ss. 7, 8.

SECURITY FOR COSTS, s. 9.

PLACE OF TRIAL, s. 10.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Interpretation.

1. In this Act the phrase "public newspaper or other periodical publication" shall be held to include any paper containing public news, intelligence, or occurrences, or any remarks or observations therein, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers; and also any paper printed in order to be dispersed

and made public weekly or oftener, or at intervals not exceeding twenty-six days, and containing only, or principally, advertisements. 45 V. c. 9, s. 2.

2. On the trial of an action for the making or publishing a libel, on the defence of not guilty, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue in the action, and shall not be required or directed by the Court or Judge before whom the action is tried, to find the defendant guilty, merely on the proof of publication by the defendant of the paper charged to be a libel, and of the sense ascribed to the same in the action; but the Court or Judge before whom the trial is had shall, according to the discretion of the Court or Judge, give the opinion and directions of the Court or Judge to the jury on the matter in issue, as in other cases; and the jury may on such issue find a special verdict, if they think fit so to do, and the defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as he might have done before the passing of this Act. R. S. O. 1877, c. 56, s. 1.

Jury not to be directed to return a verdict of guilty on the mere proof of the publication and of the sense ascribed.

3. In actions of libel and slander, the plaintiff may aver that the words or matter complained of were used in a defamatory sense, specifying the defamatory sense without any prefatory averment to shew how the words or matter were used in that sense, and the averment shall be put in issue by the denial of the alleged libel or slander; and where the words or matter set forth, with or without the alleged meaning, shew a cause of action, the statement of claim shall be sufficient. R. S. O. 1877, c. 56, s. 2.

Averments in actions for slander or libel.

4. In an action for defamation where the defendant has pleaded not guilty only, or has suffered judgment by default, or judgment has been given against him on demurrer, he may give in evidence, in mitigation of damages, that he made or offered a written or printed apology to the plaintiff for such defamation before the commencement of the action; or in case the action was commenced before there was an opportunity of making or offering such apology, that he did so as soon afterwards as he had an opportunity. R. S. O. 1877, c. 56, s. 3.

Defendant may prove in mitigation that he offered a written apology.

5.—(1) In an action for libel contained in a public newspaper or other periodical publication, the defendant may plead that the libel was inserted in the newspaper or other periodical publication without actual malice and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in the newspaper or other periodical publication a full apology for the libel; or if the newspaper or periodical publication in which the libel appeared be one ordinarily published at intervals exceed-

Defendant may plead that the libel was inserted without malice or gross negligence, and that he published or offered to publish an apology.

ing one week, that he offered to publish the apology in any newspaper or periodical publication to be selected by the plaintiff in the action. R. S. O. 1877, c. 56, s. 4.

(2) No such action shall lie unless and until the plaintiff has given to the defendant notice in writing, specifying the statements complained of, such notice to be served in the same manner as a plaintiff's statement of claim is served or by delivering the notice to some grown-up person at the place of business of the defendant. The plaintiff shall recover actual damages only, if it appears on the trial of the action, that the article was published in good faith, and that there was reasonable ground to believe that the same was for the public benefit, and if it did not involve a criminal charge, and if it appears that the publication took place in mistake or misapprehension of the facts, and that a full and fair retraction of any statement therein alleged to be erroneous was published either in the next regular issue of the newspaper, or other periodical publication aforesaid, or in any regular issue thereof published within three days after the receipt of such notice, and was so published in as conspicuous a place and type as was the article complained of,

(a) Provided, however, that the provisions of this Act shall not apply to the case of any libel against any candidate for a public office in this Province, unless the retraction of the charge is made editorially in a conspicuous manner, at least five days before the election. 50 V. c. 9, s. 1.

And may pay
money into
Court as
amends.

6. A defendant, upon filing such defence, may pay into Court a sum of money by way of amends for the injury sustained by the publication of the libel, and such payment shall be of the same effect, and available to the same extent and in the same manner, and be subject to the same rules and regulations as to costs, and the form of pleading (except so far as regards the additional facts hereinbefore required to be pleaded by the defendant), as payment of money into Court in other cases; and to such defence the plaintiff may reply generally, denying the whole thereof. R. S. O. 1877, c. 56, s. 5.

Fair reports
of public
meetings to be
privileged.

Province.

7.—(1) A report published in a public newspaper or other periodical publication of the proceedings of a public meeting shall be privileged, if the meeting was lawfully convened for a lawful purpose and open to the public, and if the report was fair and accurate, and published without malice, and if the publication of the matter complained of was for the public benefit; provided always, that the protection intended to be afforded by this section shall not be available as a defence in any proceeding, if the plaintiff can shew that the defendant has refused to insert in a newspaper in which the report containing the matter complained of appeared, a reasonable letter or state-

ment of explanation or contradiction by or on behalf of the plaintiff. 45 V. c. 9, s. 3.

(2) The words "a public meeting" in this section shall extend to any lawful meeting to which the public are invited, and of which announcement has been made by printed or written notice thereof being posted up in at least six conspicuous places in the municipality where the meeting is held, or by advertisement in a public newspaper published in such municipality, or if there be none published therein then in the one published nearest to the place of meeting. 50 V. c. 9, s. 2.

Meaning of
"public meet-
ing".

8. All reports of proceedings in any Court of Justice, published in a public newspaper or other periodical publication, shall be privileged, provided that they are fair and authentic and without comments, unless the defendant has refused or neglected to insert in the newspaper in which the report complained of appeared a reasonable letter or statement of explanation or contradiction, by or on behalf of the plaintiff. 50 V. c. 9, s. 3.

Report of
proceedings
in Courts
privileged.

9.—(1) In an action brought for libel contained in a public newspaper or periodical publication, the defendant may, at any time after the filing of the statement of claim, apply to the Court or a Judge for security for costs, upon notice and an affidavit by the defendant or his agent, shewing the nature of the action and of the defence, and shewing that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a verdict or judgment be given in favour of the defendant, and that the defendant has a good defence upon the merits, and that the statements complained of were published in good faith, or that the grounds of action are trivial or frivolous; and the Court or Judge may make an order that the plaintiff shall give security for the costs to be incurred in such action, and the security so ordered shall be given in accordance with the practice in cases where a plaintiff resides out of the Province, and the order shall be a stay of proceedings until the proper security is given as aforesaid.

Security for
costs.

(a) But where the alleged libel involves a criminal charge the defendant shall not be entitled to security for costs under this Act, unless he satisfies the Court or Judge that the action is trivial or frivolous, or that the several circumstances which under sub-section 2 of section 5 of this Act entitle the defendant at the trial to have the damages restricted to actual damages appear to exist, except the circumstance that the article complained of involves a criminal charge.

(2) For the purposes of this section the plaintiff or the defendant or their agents may be examined upon oath at any time after the statement of claim has been filed. 50 V. c. 9, s. 4.

Place of trial.

10. Every action for libel contained in a public newspaper or other periodical publication, shall be tried in the county where the chief office of such newspaper or periodical is, or in the county wherein the plaintiff resides at the time the action is brought; but upon the application of either party the Court or a Judge may direct the issues to be tried or the damages to be assessed in any other county if it be made to appear to be in the interests of justice, or that it will promote a fair trial, and may impose such terms as to payment of witness fees, and otherwise as may seem proper. 50 V. c. 9, s. 5.

CHAPTER 58.

An Act respecting the Action of Seduction.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Action when maintainable by father or mother.

1. The father or, in case of his death, the mother (whether she remains a widow or remarries) of any unmarried female who has been seduced, and for whose seduction the father or mother could maintain an action in case such unmarried female were at the time dwelling under his or her protection, may maintain an action for the seduction, notwithstanding such unmarried female was, at the time of her seduction, serving or residing with another person, upon hire or otherwise. R. S. O. 1877, c. 57, s. 1.

Proof of service dispensed with.

2. Upon the trial of an action for seduction brought by the father or mother, it shall not be necessary to give proof of any act of service performed by the person seduced, but the same shall in all cases be presumed, and no proof shall be received to the contrary; but in case the father or mother of the female seduced had, before the seduction, abandoned her, and refused to provide for and retain her as an inmate, then any other person who might at Common Law have maintained an action for the seduction may maintain such action. R. S. O. 1877, c. 57, s. 2.

When action maintainable by relatives or masters.

3. Any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled at Common Law to maintain an action for the seduction of an unmarried female, may still maintain such action, if the father or mother be not resident in Ontario at the time of the birth of the child which may be born in consequence of the seduction, or being resident therein does not bring an action for the seduction within six months from the birth of the child. R. S. O. 1877, c. 57, s. 3.

When action maintainable by person other than father or mother.

CHAPTER 59.

An Act respecting the Administration by the Crown
of Estates of Intestates.

APPLICATION BY THE ATTORNEY-GENERAL FOR ADMINISTRATION WHERE THE CROWN IS INTERESTED, s. 1.

APPLICATION IN CASES WHERE AN INTESTATE LEAVES NO KNOWN RELATIVES IN THE PROVINCE, s. 2.

RIGHTS, ETC., OF ATTORNEY-GENERAL TO VEST IN HIS SUCCESSORS, s. 3.

SECURITY DISPENSED WITH, s. 4.

POWER OF ADMINISTRATOR TO SELL REAL ESTATE, s. 5.

RIGHTS OF RELATIVES AFTER ISSUE OF ADMINISTRATION, s. 6.

INQUIRIES AS TO THE RIGHTS OF THE CROWN, ss. 7, 8.

DISPOSITION OF MONEYS RECEIVED BY THE ATTORNEY-GENERAL, s. 9.

INTEREST ALLOWABLE TO PERSONS ENTITLED TO MONEYS, s. 10.

RIGHTS OF PERSONS HAVING CLAIMS ON THE ESTATE, s. 11.

ATTORNEY-GENERAL MAY RETAIN DISBURSEMENTS MADE IN RESPECT OF INQUIRIES, s. 12.

PROTECTION OF ATTORNEY-GENERAL ACTING AS ADMINISTRATOR, s. 13.

DISTRIBUTION OF ASSETS BY ATTORNEY-GENERAL, ss. 14, 15.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. So often as the Lieutenant-Governor, by a warrant under his privy seal, is pleased to direct Her Majesty's Attorney-General for Ontario to apply for and obtain letters of administration (whether general or limited) of the estate and effects of any person dying intestate, or intestate as to some part of his estate, where, in respect of the interest of Her Majesty in the estate and effects, the administration may be rightfully granted to a nominee of Her Majesty, it shall be lawful for any competent Court, upon application, in pursuance of such warrant, to grant administration to the Attorney-General and his successors in the office of Attorney-General for Ontario, for the use and benefit of Her Majesty. R. S. O. 1877, c. 60, s. 1.

Administration may issue to the Attorney-General in cases where nominee of the Crown entitled to administer.

2. Where any person dies in this Province intestate as aforesaid, and without leaving any known relatives living within the Province, or any known relatives who can be readily communicated with, living elsewhere, the Lieutenant-Governor may (if he thinks fit) by warrant under his privy seal direct the Attorney-General for Ontario to apply for and obtain letters of administration, whether general or limited, of the estate and effects of such person;

Attorney-General may obtain letters of administration of intestates leaving no known relatives within the Province.

and it shall be lawful for any competent Court upon application in pursuance of the warrant, to grant administration to the Attorney-General and his successors in the office of Attorney-General, for the use and benefit of Her Majesty or of such persons as may ultimately appear to be entitled thereto. R. S. O. 1877, c. 60, s. 2. *See Cap. 108, ss. 4 (1), 10.*

Rights and liabilities, etc., of the Attorney-General as administrator to vest in his successors.

3. The administration so granted, and the office of administrator under the grant, with all the estates, rights, duties and liabilities of such administrator, shall, upon the death, resignation, or removal of the Attorney-General for Ontario for the time being, devolve upon and become vested and continue in the succeeding Attorney-General, by virtue of his appointment, and so in perpetual succession, without any further grant of administration or any assignment or transfer of the estates of the administrator; and all actions, and other proceedings whatever by or against the Attorney-General for the time being, as such administrator at the time of his death, resignation, or removal, shall continue, and may be proceeded with, by, in favour of, and against the succeeding Attorney-General, in like manner; saving always, the effect of every limitation in duration or otherwise under the terms of the grant of such administration, and saving to every Court having jurisdiction in this behalf all such right and authority to revoke or repeal such administration as the Court would have had during the continuance of a like administration granted to a nominee of Her Majesty in case this Act had not been passed. R. S. O. 1877, c. 60, s. 3.

Power to revoke administration.

Security for due administration dispensed with.

Liability of Attorney-General to be as in condition of bond.

Rev. Stat. c. 50.

4. It shall not be necessary for the Attorney-General applying for or obtaining grants of administration to the use or benefit of Her Majesty, to enter into, or cause to be entered into, any bond to the Judge of the Surrogate Court; but the Attorney-General shall, in relation to every such administration, be subject to all the liabilities and duties imposed on an administrator by the condition of the bond prescribed by the rules and orders now in force or hereafter made under *The Surrogate Courts Act*. R. S. O. 1877, c. 60, s. 4.

Power to sell the real estate of the intestate.

5. Where administration is granted to the Attorney-General, the Lieutenant-Governor in Council may direct the sale, either by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled; and the Attorney-General shall thereupon be authorized to sell in accordance with the directions of any Order in Council in that behalf, the whole, or any part of the real estate aforesaid, and to convey the same to the purchaser; and every conveyance by the Attorney-General or his successor in office shall be as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same. R. S. O. 1877, c. 60, s. 5.

6. In case subsequently to the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Attorney-General may, if he thinks fit, exercise, subject to the discretion of the Lieutenant-Governor in Council, all or any of the powers by this Act conferred until some person is appointed by some Court of competent jurisdiction to deal with the estate of the deceased; and notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Attorney-General of a conveyance; and until the revocation of the letters granted, the Attorney-General may exercise fully all the powers vested in him as administrator of the estate of the deceased. R. S. O. 1877, c. 60, s. 6.

Rights of relations after the issue of administration.

7. Where administration is taken out under the provisions of this Act, the Attorney-General may apply to the High Court for an order for the making of such inquiries as may be necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased on account of the deceased dying intestate and without heirs or next of kin, or otherwise. Any judgment made upon such inquiry shall, unless reversed on appeal, be final and conclusive. R. S. O. 1877, c. 60, s. 7.

Inquiry as to the rights of Her Majesty.

8.—(1) Where a person dies in possession of, or entitled to real estate in Ontario, intestate as to such real estate, without any known heirs, the Attorney-General may apply to the High Court for an order for the making of such inquiries as may be necessary to determine whether or not Her Majesty is entitled to any portion of the real estate of the deceased on account of his dying intestate, and without heirs; and any judgment or order given upon such inquiry shall, unless reversed on appeal, be final and conclusive.

Recovery by Crown of real estate of persons dying intestate and without heirs.

(2) Where the Attorney-General is entitled to apply under the preceding sub-section, he may bring an action, either in his own name, on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of the real estate of the deceased and shall be entitled to judgment and to recover possession, unless the person claiming adversely shews that the deceased did not die intestate; as to such real estate, or that he left heirs, or that some other person is entitled to the said real estate. 49 V. c. 16, s. 14.

9. Moneys realized from estates to which the Attorney-General is administrator under this Act, shall be kept in a separate account in such bank or invested in such manner as the Lieutenant-Governor may from time to time appoint, and all moneys which have been unclaimed for ten years shall from time to time be paid into the Consolidated Revenue Fund of Ontario. R. S. O. 1877, c. 60, s. 8.

Disposition of moneys.

Interest allowable to person entitled to moneys.

10. Any person proving title to such moneys shall be entitled to receive the same with interest at such a rate as the Lieutenant-Governor may, having regard to the rate realized therefrom, from time to time direct. R. S. O. 1877, c. 60, s. 9.

Rights of persons having claims upon the estate.

11. Any one claiming to be entitled to such estate or to any interest therein or to any part of the proceeds thereof, may apply to the High Court upon petition for an order or judgment declaring his rights in respect thereto; and the Court may thereupon order such inquiries as may be necessary to determine the same and may finally adjudicate thereupon: but no application under this section shall be entertained unless security for costs is given by the applicant in case the Attorney-General thinks fit to demand the same. R. S. O. 1877, c. 60, s. 10.

Attorney-General may retain disbursements made in respect of inquiries.

12. The Attorney-General may deduct from moneys received on account of any estate all disbursements made by him in respect to inquiries which he may have considered it expedient to make before taking out administration, as well as disbursements otherwise made by him in respect of the estate. R. S. O. 1877, c. 60, s. 11.

Protection of Attorney-General acting as administrator.

13. Where the Attorney-General is appointed or becomes administrator or trustee for an estate, and he or any of his predecessors in the trust has given such notice as under *The Act respecting Trustees and Executors, and the Administration of Estates* would be sufficient for the protection of an administrator, the provisions of the said Act shall apply to the Attorney-General, and to the estate. 47 V. c. 11, s. 1.

Rev. Stat. c. 110.

Distribution of assets by Attorney-General after notice.

14. After such notice, and notwithstanding the ten years limited by section 9 of this Act have not elapsed, the Attorney-General may pay any money remaining in his hands unclaimed into the Consolidated Revenue Fund of Ontario; or may pay the same or any part thereof, or assign over personal property remaining in his hands, in accordance with any direction of the Lieutenant-Governor in Council, made under section 6 of *The Act respecting Escheats and Forfeitures*. 47 V. c. 11, s. 2.

Rev. Stat. c. 95.

Her Majesty and the Province not liable where property paid away, but right to follow property not affected.

15. In such case no claim shall be maintained against Her Majesty, or this Province, in respect of any moneys or personal property paid over or assigned to any person or persons under said section 6 of the said *Act respecting Escheats and Forfeitures*, or under this Act; but this shall not prejudice the right of a creditor or claimant to follow the said moneys or property or proceeds into the hands of the person who may have received the same under the authority of the Order in Council 47 V. c. 11, s. 3.

Rev. Stat. c. 95.

CHAPTER 60.

An Act respecting the Limitation of certain actions.

LIMITATION OF ACTIONS—	
For rent upon a demise, s. 1 (a).	Of account or between merchants, s. 2.
On specialties, s. 1 (b).	DISABILITIES, s. 3.
On recognizances, s. 1 (c).	DISTINCTION BETWEEN RESIDENTS AND NON-RESIDENTS ABOLISHED, ss. 4, 5.
On awards, s. 1 (d).	CASES OF ACTIONS AGAINST JOINT DEBTORS, ss. 6, 7.
For escape, s. 1 (e).	EFFECT OF ACKNOWLEDGMENTS, s. 8.
For money levied under execution, s. 1 (f).	LIMITATION IN INTESTACY, s. 9.
For penalties, etc., s. 1 (g).	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1.—(1) The actions hereinafter mentioned shall be commenced within and not after the times respectively hereinafter mentioned, that is to say : Limitation of time for commencing particular actions.

- (a) Actions for rent, upon an indenture of demise,
 - (b) Actions upon a bond, or other specialty,
 - (c) Actions upon a recognizance,
- within twenty years after the cause of such actions arose ;
- (d) Actions upon an award where the submission is not by specialty,
 - (e) Actions for an escape,
 - (f) Actions for money levied on execution,
- within six years after the cause of such actions arose ;
- (g) Actions for penalties, damages, or sums of money given to the party aggrieved, by any statute,
- within two years after the cause of such actions arose ;

(2) But nothing herein contained shall extend to any action given by any statute, when the time for bringing the action is by the statute specially limited. Where time specially limited. R. S. O. 1877, c. 61, s. 1.

Actions of account, etc., to be commenced within six years.

2. All actions of account or for not accounting, or for such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of such actions arose; and no claim in respect of a matter which arose more than six years before the commencement of the action, shall be enforceable by action by reason only of some other matter of claim comprised in the same account, having arisen within six years next before the commencement of the action. R. S. O. 1877, c. 61, s. 2.

In case of disabilities of Plaintiff.

3. In case a person entitled to such action, as aforesaid, is at the time of the cause of action accruing within the age of twenty-one years, or *non compos mentis*, then such person may bring the action, within such time after coming to or being of full age, or of sound memory, as other persons having no such impediment should, according to the provisions of this Act, have done. R. S. O. 1877, c. 61, s. 3.

Non-resident Plaintiffs.

4. A plaintiff who is resident without the limits of Ontario shall have no longer period of time to commence an action than if he were resident in Ontario when the cause of action or proceeding first accrued. 42 V. c. 16, s. 1.

Non-resident Defendants.

5. If a person against whom any such cause of action accrues, is at such time without the limits of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R. S. O. 1877, c. 61, s. 3.

As to cases where some joint debtors have been within and some without Ontario.

6. Where a cause of action, with respect to which the period of limitation is fixed by the Imperial Act of the 21st year of the Reign of King James the First, chapter 16, section 3, or by any Act now in force in Ontario, lies against joint debtors, the person entitled to the same shall not be entitled to any time within which to commence such action against any one of the joint debtors who was within Ontario at the time the cause of action accrued, by reason only that some other of the joint debtors was, at the time the cause of action accrued, without Ontario. R. S. O. 1877, c. 61, s. 4.

21-Jac. I, c. 16, s. 3.

Recovery against one joint debtor, no bar to action against another who is absent.

7. The person so entitled shall not be barred from commencing an action against the joint debtor who was without Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against the joint debtor who was within Ontario at the time aforesaid. R. S. O. 1877, c. 61, s. 5.

Effect of written acknowledgment or part payment.

8. In case an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty or recognizance, or in case

an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on such indenture, specialty or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years after such acknowledgment by writing, or part payment, or part satisfaction, as aforesaid; or in case the person entitled is at the time of the acknowledgment under disability, as aforesaid, or the party making the acknowledgment is, at the time of making the same without Ontario, then within twenty years after the disability has ceased, as aforesaid, or the party has returned, as the case may be. R. S. O. 1877, c. 61, s. 6.

9. No action or other proceeding shall be brought to recover the personal estate, or any share of the personal estate of a person dying intestate, possessed by the legal personal representative of such intestate, but within twenty years next after a present right to receive the same accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the estate or share, or some interest in respect thereof has been accounted for or paid, or some acknowledgment of the right thereto has been given in writing, signed by the person accountable for the same, or his agent, to the person entitled thereto, or his agent; and in such case, no action shall be brought but within twenty years after such accounting, payment or acknowledgment, or the last of such accountings, payments or acknowledgments, if more than one, was made or given. R. S. O. 1877, c. 61, s. 8.

An action to recover personal estate of an intestate or any part thereof, must be brought within twenty years.
Imp. Act, 23 and 24 V. c. 38, s. 13.

CHAPTER 61.

An Act respecting Witnesses and Evidence.

SHORT TITLE, s. 1.

COMPETENCY OF WITNESSES :

- Crime or interest, ss. 2, 3.
- Husband and wife, ss. 4, 7, 8, 9.
- Evidence of parties, ss. 4, 6, 7.
- Criminating questions need not be answered, s. 5.
- In cases under Ontario Acts, etc., s. 9.

CORROBORATIVE EVIDENCE :

- In actions for breach of promise, s. 6.
- In cases against representatives of deceased persons, s. 10.
- In cases against lunatics, s. 11.

AFFIRMATIONS, ss. 12-15.

ATTENDANCE OF WITNESSES :

- A party to an action may summon opposite party as a witness, s. 16.
- Subpoenas to the province of Quebec, C. S. C., c. 79, ss. 4-13, p. 714.

EXAMINATION OF WITNESSES :

- Proof of previous contradictory statements in writing s. 17.
- Proof of previous contradictory oral statements, s. 18.
- Proof of previous conviction, s. 19.
- Discrediting a party's own witness, s. 20.

PUBLIC DOCUMENTS, etc., AS EVIDENCE :

- Official documents, ss. 21-25.
- Certain Statutes, s. 26.
- Signatures of Judges, s. 27.
- Foreign Judgments, s. 28.
- Notarial documents made in Quebec, ss. 29, 30.
- Protests of Bills and Notes, ss. 31-33.
- Affidavits made out of Ontario, ss. 34-35.
- Formal defects in Affidavits, s. 36.
- Depositions, s. 37.
- Wills, ss. 38-41.
- Registered instruments, ss. 42-45.
- Other written instruments, s. 46.
- Compelling attendance of witnesses for purpose of foreign commission, s. 47.
- EVIDENCE WHEN PERSON RESIDENT IN GREAT BRITAIN IS A PARTY, s. 48.
- EVIDENCE SUFFICIENT BETWEEN VENDOR AND PURCHASER TO BE SUFFICIENT IN OTHER CASES, s. 49.
- WHEN PROOF BY ATTESTING WITNESSES UNNECESSARY, s. 50.
- COMPARISON OF HANDWRITING, s. 51.
- IMPOUNDING INSTRUMENTS OFFERED IN EVIDENCE, s. 52.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Short title.

1. This Act may be cited as "*The Evidence Act.*" R. S. O., 1877, c. 62, s. 1.

COMPETENCY OF WITNESSES.

Witnesses not
to be incapacitated by
any

2. No person offered as a witness shall hereafter be excluded by reason of any alleged incapacity from crime or interest from giving evidence, according to the practice of the Court, on the trial of any action, issue, matter or proceeding, in any Court of Ontario, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence. R. S. O. 1877, c. 62, s. 2.

3. Every person so offered shall be admitted to give evidence notwithstanding that such person has an interest in the matter in question, or in the event of the trial of any issue, matter, question or inquiry, or of the action or proceeding in which he is offered as a witness, and notwithstanding that such person has been previously convicted of any crime or offence. R. S. O. 1877, c. 62, s. 3. Such persons admitted to give evidence.

4. On the trial of any action, issue, matter or proceeding in any Court in this Province, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence, the parties to the proceedings, and the persons in whose behalf the action or other proceeding, is brought or instituted, or opposed, or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, according to the practice of the Court, on behalf of themselves or of either or any of the parties to the action or proceeding: and the husbands and wives of such parties and persons shall, except as hereinafter excepted, be competent and compellable to give evidence, according to the practice of the Court, on behalf of either or any of the parties to the action or proceeding. R. S. O. 1877, c. 62, s. 4. Evidence of parties.

5. Nothing herein contained shall render any person compellable to answer any question tending to criminate himself or to subject him to prosecution for any penalty. R. S. O. 1877, c. 62, s. 5. Questions tending to criminate need not be answered.

6. The parties to an action for breach of promise of marriage shall be competent to give evidence in the action: Provided always that no plaintiff in an action for breach of promise of marriage shall recover a verdict unless his or her testimony is corroborated by some other material evidence in support of the promise. 45 V. c. 10, s. 3. Evidence in proceedings for breach of promise.

7. The parties to a proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be competent to give evidence in the proceeding: Provided that in such case the husband or wife, if competent only under and by virtue of this Act, shall not be liable to be asked or bound to answer any question tending to shew that he or she has been guilty of adultery, unless he or she shall have already given evidence in the same proceeding in disproof of his or her alleged adultery. 45 V. c. 10, s. 4. Evidence in proceedings in consequence of adultery.

8. No husband shall be compellable to disclose any communication made by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage. R. S. O. 1877, c. 62, s. 8. Communications made during marriage.

Evidence in
trials under
Acts of Onta-
rio.

9. On the trial of any proceeding, matter or question, under any Act of the Legislature of Ontario, or on the trial of any proceeding, matter or question before any Justice of the Peace, Mayor, or Police Magistrate, in any matter cognizable by such Justice, Mayor, or Police Magistrate, not being a crime, the party opposing or defending, or the wife or husband of the person opposing or defending, shall be competent and compellable to give evidence therein. R. S. O. 1877, c. 62, s. 9.

In actions by or
against repre-
sentatives of a
deceased
person, the
evidence of the
opposite party
must be cor-
roborated.

10. In any action or proceeding by or against the heirs, executors, administrators, or assigns of a deceased person, an opposite or interested party to the action shall not obtain a verdict, judgment, or decision therein, on his own evidence, in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R. S. O. 1877, c. 62, s. 10.

In actions by or
against luna-
tics, etc., evi-
dence of oppo-
site party to be
corroborated.

11. In any action or proceeding by or against a person found by inquisition to be of unsound mind, or being an inmate of a lunatic asylum, an opposite or interested party shall not obtain a verdict, judgment, or decision therein, on his own evidence, unless such evidence is corroborated by some other material evidence. R. S. O. 1877, c. 62, s. 11.

AFFIRMATIONS.

Quakers,
Menonists,
Tunkers, etc.,
permitted to
make affirma-
tion.

12. In any case in which an oath, declaration or affirmation is required by law, or upon any lawful occasion whatever on which the oath of any person is by law admissible, a Quaker, Menonist or Tunker, or a member of the church known as the "Unitas Fratrum," or the United Brethren, sometimes called the Moravian Church, having first made the following declaration or affirmation, viz.:

"I, A. B., do solemnly, sincerely and truly declare and affirm that I am one of the Society called Quakers, Menonists, Tunkers or Unitas Fratrum or Moravians" (*as the case may be*);

may make his affirmation or declaration in the form following, that is to say:

"I, A. B., do solemnly, sincerely and truly affirm and declare," &c.;

and such affirmation or declaration shall have the same force and effect to all intents and purposes, in all Courts and all other places, as an oath taken in the usual form. R. S. O. 1877, c. 62, s. 12.

Certain per-
sons may make
affirmation or
declaration
instead of
oath.

13. If a person called as a witness, or required or desiring to make an affidavit or deposition in a proceeding, or on an occasion whereon or touching a matter respecting which an oath is required, whether on taking office or otherwise,

refuses or is unwilling, from alleged conscientious motives, to be sworn, the Court or Judge, or other presiding officer, or person qualified to take affidavits or depositions, may permit such person, instead of being sworn, to make his or her solemn affirmation or declaration in the words following, viz.:

"I, A. B., do solemnly, sincerely and truly affirm and declare that the taking of an oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely and truly affirm and declare," &c.:

which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form. R. S. O. 1877, c. 62, s. 13.

14.—(1) If in a Court of justice, a person called to give evidence objects to take an oath, or is objected to as incompetent to take an oath, such person shall, if the presiding Judge is satisfied that the taking of an oath would have no binding effect on his conscience, make the following promise, affirmation, and declaration:

Persons who object or are incompetent to take an oath to be allowed to make a declaration.

"I solemnly promise, affirm, and declare that the evidence given by me to the court shall be the truth, the whole truth, and nothing but the truth."

And upon the person making such solemn affirmation and declaration, his evidence shall be taken in the said proceeding. 45 V. c. 10, s. 5.

(2) The words "Court of justice" and the words "presiding Judge" in this section shall be deemed to include any person having by law authority to administer an oath for the taking of evidence. 45 V. c. 10, s. 2.

Interpretation.

15. Every person authorized or required to administer an oath for any purpose, may administer any affirmation or declaration as aforesaid. R. S. O. 1877, c. 62, s. 14.

Persons authorized to administer oaths may administer affirmation.

SUBPŒNAS.

16. Where a party in an action desires to call the opposite party as a witness at the trial, he shall either subpœna such party or give to him or his solicitor at least eight days' notice of the intention to examine him as a witness in the cause, and if such party does not attend on the notice or subpœna, his non-attendance shall be taken as an admission *pro confesso* against him in the action, unless otherwise ordered by the Judge and a general finding or judgment may be had against the party thereon or the plaintiff may be non-suited, or the proceedings in the action may be postponed by the Judge, on such terms as he sees fit to impose. R. S. O. 1877, c. 62, s. 18.

A party to any action may be summoned as a witness by the opposite party, and consequences of non-attendance.

ISSUE OF SUBPŒNAS INTO ANY PART OF ONTARIO OR QUEBEC.

[Sections 4-11 and 13 of C. S. C. c. 79, are as follows :

Courts may issue subpoenas to any part of Canada.

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court, that it is proper to compel the personal attendance at any trial, or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpoena ad testificandum* or of *subpoena duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada. 18 V. c. 9, s. 1.

Service thereof in any part of Canada to be good.

5. The service of any such writ or process in any part of Canada shall be as valid and effectual, to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court. 18 V. c. 9, s. 1.

When not to be issued.

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside. 18 V. c. 9, s. 1.

Writs to be specially noted.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order and no such writ shall issue without such special order. 18 V. c. 9, s. 2.

Consequences of disobedience.

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued may, upon proof made of the service thereof, and of such default, to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpoena or other similar process issued out of such last mentioned Court. 18 V. c. 9, s. 3.

If expenses paid or tendered.

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Courts of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process, was served upon him. 18 V. c. 9, s. 3.

How service proved.

10. The service of such writs of subpoena or other similar process in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same. 18 V. c. 9, s. 3.

Costs of attendance provided for.

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses, unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders. 18 V. c. 9, s. 4.

13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court. 18 V. c. 9, ss. 6, 7.] Power to issue commissions to examine witnesses preserved.

EXAMINATION OF WITNESSES.

17. Upon the trial of any cause a witness may be cross-examined as to previous statements made by him in writing or reduced into writing, relative to the subject matter of the cause, without the writing being shewn to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and the Judge at any time during the trial, may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit. R. S. O. 1877, c. 62, s. 24. Proof of contradictory written statements.

18. If a witness upon cross-examination as to a former statement made by him relative to the subject matter of the cause, and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement. R. S. O. 1877, c. 62, s. 25. Proof of contradictory oral statements.

19. —(1) A witness may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove the conviction; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the offence, purporting to be signed by the clerk of the Court or other officer having the custody of the records of the Court at which the offender was convicted, or by the deputy of the clerk or officer, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of his conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate. Proof of previous conviction of a witness may be given if he denies it, etc.

(2) For such certificate a fee of \$1 and no more may be demanded or taken. R. S. O. 1877, c. 62, s. 26. Fee.

20. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but in case the witness, in the opinion of the Judge, proves adverse, such party may contradict him by other evidence, or, by leave of the Judge, may prove that the witness made at other times How far a party may discredit his own witness.

a statement inconsistent with his present testimony ; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement. R. S. O. 1877, c. 62, s. 27.

PUBLIC AND OTHER DOCUMENTS.

Official Documents.

Ontario Orders in Council, etc., printed by Queen's Printer and published with Statutes, to be *prima facie* evidence.

21. A copy of an Order in Council purporting to be made by the Lieutenant-Governor or Administrator of the Government of Ontario, and a copy of a departmental or other regulation purporting to be made by the said Lieutenant-Governor or Administrator in Council, or by any other person or persons authorized by law to make such regulation, purporting to be printed by the Queen's Printer at Toronto, and published with the Statutes of Ontario, shall be received in any Court as *prima facie* evidence of the tenor of the order or regulation. 48 V. c. 13, s. 9.

Dominion Orders in Council, etc., printed by Queen's Printer and published with Statutes, to be *prima facie* evidence.

22. A copy of an Order in Council purporting to be made by the Governor-General of Canada, or his deputy, or other Chief Executive Officer or Administrator of the Government of Canada, or a copy of a departmental or other regulation made by the said Governor-General or his deputy, or other Chief Executive Officer or Administrator of the Government of Canada, or by any other person or persons authorized by law to make such regulation, purporting to be printed by the Queen's Printer at Ottawa, and published with the Statutes of Canada by the said Queen's Printer shall be received in any Court as *prima facie* evidence of the tenor of the order or regulation. 48 V. c. 13, s. 10.

How public or official documents proved.

23. In every case in which the original record could be received in evidence, a copy of any official or public document in this Province, purporting to be certified under the hand of the proper officer, or person in whose custody such official or public document is placed, or a copy of a document, by-law, rule, regulation or proceeding, or a copy of any entry in any register or other book of any corporation, created by charter or statute in this Province, purporting to be certified under the seal of the corporation, and the hand of the presiding officer or secretary thereof, shall be receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R. S. O. 1877, c. 62, s. 28.

Privilege in case of official documents.

24. Where documents are in the official possession, custody or power of a member of the Executive Council, or the Head of a Department of the Public Service of this Province, if the

Deputy head or other officer of the Department has the documents in his personal possession, and is called as a witness, he shall be entitled, acting herein by the direction and on behalf of such member of the Executive Council or Head of the Department, to object to produce the documents on the ground that they are privileged; and such objection may be taken by him in the same manner, and shall have the same effect, as if such member of the Executive Council or Head of the Department were personally present and made the objection. 49 V. c. 16, s. 16.

25—(1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other statute exists which renders its contents provable by means of a copy, a copy thereof or extract therefrom shall be admissible in evidence in any Court of justice, or before a person having by law or by consent of parties, authority to hear, receive and examine evidence, provided it be proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original has been entrusted.

Copies of public books or documents admissible in evidence.

(2) Such officer shall furnish such certified copy or extract to any person applying for the same at a reasonable time, upon his paying therefor a sum not exceeding ten cents for every folio of one hundred words. R. S. O. 1877, c. 62, s. 29.

Copies to be delivered if required.

Certain Statutes.

26. Any copy of the Statutes and Ordinances of the late Province of Lower Canada, printed and published by the printer duly authorized to print and publish the same by Her Majesty, or by any of Her Royal Predecessors, shall be received as conclusive evidence of the several Statutes made and enacted prior to the Union of the Provinces of Upper and Lower Canada by the Legislature of the Province of Lower Canada, and of the tenor of such Statutes and Ordinances, in any Court of civil jurisdiction in Ontario. R. S. O. 1877, c. 62, s. 37.

Copies of Acts of L. C. printed by Queen's Printer to be conclusive evidence thereof.

[C. S. C. c. 5, s. 14 (1), also enacts that a similar copy shall be conclusive evidence of such Statutes and Ordinances in Courts of criminal jurisdiction in Ontario.]

Signatures of Judges.

27. All Courts, Judges, Justices, Masters, Clerks of Courts Commissioners judicially acting, and other judicial officers in this Province, shall take judicial notice of the signature of any of the Judges of the Supreme Court of Canada, the Court of Appeal, the High Court of Justice, the County Courts of Ontario, or the Superior or Circuit Courts in Quebec, where

Judicial notice to be taken of signatures of Judges, &c.

such signature is appended or attached to any decree, order, certificate, affidavit, or judicial or official document. R. S. O. 1877, c. 62, s. 30.

Foreign Judgments.

Foreign judgments, etc., how proved.

28. Any judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature in England or Ireland or in any of the Superior Courts of Law, Equity or Bankruptcy in Scotland, or in any Court of Record in any of the Provinces of Canada, or in any British Colony or Possession, or in any Court of Record of the United States or of any State of the United States of America, may be proved in any action or proceeding in Ontario, in which proof of such judgment, decree or judicial proceeding may be necessary or required, by an exemplification of the same under the seal of the Court without any proof of the authenticity of such seal or other proof whatever, in the same manner as any judgment, decree, or similar judicial proceeding of the High Court in Ontario may be proved by an exemplification thereof in any judicial or other proceeding in the said Court. R. S. O. 1877, c. 62, s. 31; 43 V. c. 7, s. 1.

Notarial Documents.

Notarial acts in Quebec admissible.

29. A copy of a notarial act or instrument in writing made in Quebec, before a Notary, filed, enrolled or enregistered by such Notary, and certified by a Notary or Prothonotary to be a true copy of the original thereby certified to be in his possession as such Notary or Prothonotary, shall be receivable in evidence in any judicial or other proceeding in Ontario in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved. R. S. O. 1877, c. 62, s. 32.

How impeached.

30. Such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a Notary, or be filed, enrolled or enregistered by a Notary in Quebec. R. S. O. 1877, c. 62, s. 33.

Protests of Bills and Notes.

Protests *prima facie* evidence.

31. All protests of bills of exchange and promissory notes shall be received in all Courts as *prima facie* evidence of the allegations and facts therein contained. R. S. O. 1877, c. 62, s. 34.

Certificate of notaries to be *prima facie* evidence.

32. Any note, memorandum or certificate at any time made by one or more Notaries Public either in Ontario or Quebec, in his own handwriting or signed by him at the foot of or

embodied in any protest, or in a regular register of official acts kept by him shall be *prima facie* evidence in Ontario of the fact of notice of non-acceptance or non-payment of a promissory note or bill of exchange having been sent or delivered, at the time and in the manner stated in such note, certificate or memorandum. R. S. O. 1877, c. 62, s. 35.

33. The production of a protest on a promissory note or bill of exchange, under the hand or seal of one or more Notaries Public, either in Ontario or Quebec, in any Court in Ontario, shall be *prima facie* evidence of the making of such protest. R. S. O. 1877, c. 62, s. 36.

Production of protest to be *prima facie* evidence that protest was made.

Affidavits, etc., made out of Ontario.

34. Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of the Province of Ontario, before some one of the following persons :

Affidavits to be used in Ontario may be made before certain functionaries in the United Kingdom or foreign parts.

A Commissioner authorized to administer oaths in the Supreme Court of Judicature in England or Ireland;

A Judge of the Supreme Court of Judicature in England or Ireland;

A Judge of the Court of Session or the Justiciary Court in Scotland;

A Judge of any of the County Courts of Great Britain or Ireland, within his County;

A Notary Public certified under his hand and official seal;

The Mayor or Chief Magistrate of any City, Borough or Town corporate, in Great Britain or Ireland, or in any Colony of Her Majesty, or in any foreign country, and certified under the common seal of such City, Borough, or Town corporate;

A Judge of any Court of Record or of supreme jurisdiction in any Colony belonging to the Crown of Great Britain, or any dependency thereof, or in any foreign country;

Or, if made in the British Possessions in India, before any Magistrate or Collector certified to have been such under the hand of the Governor of such Possession;

Or, if made in Quebec, before a Judge or Prothonotary of the Superior Court or Clerk of the Circuit Court;

Or before any Consul, Vice-Consul, or Consular Agent of Her Majesty exercising his functions in any foreign place;

Or before a Commissioner authorized by the laws of Ontario to take affidavits in and for any of the Courts of Record of the Province;

for the purposes of and in or concerning any cause, matter or thing depending or in any wise concerning any proceedings in any Courts in this Province, shall be as valid and effectual and shall be of like force and effect to all intents and purposes as if such oath, affidavit, affirmation or declaration had been administered, sworn, affirmed or made in this Province

before a Commissioner for taking affidavits therein, or other competent authority of the like nature. R. S. O. 1877, c. 62, s. 38; 50 V. c. 8, Sched.

Seal and signature need not be proved.

35. Any document purporting to have affixed, impressed or subscribed thereon or thereto the signature of such Commissioner, or the signature and official seal of such Notary Public, or Prothonotary, or the seal of the Corporation, and the signature of such Mayor or Chief Magistrate or Governor as aforesaid, or the seal and signature of such Judge, Consul, Vice-Consul or Consular Agent in testimony of such oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, shall be admitted in evidence without proof of such signature, or seal and signature, being the signature or the seal and signature of the person whose signature or seal and signature the same purport to be, or of the official character of such person. R. S. O. 1877, c. 62, s. 39.

Formal Defects in Affidavits.

Informal headings, etc., not to invalidate.

36. No informality in the heading, or other formal requisites to any affidavit, declaration or affirmation, made or taken before a Commissioner or other person authorized to take affidavits under *The Act respecting Commissioners for taking Affidavits and Recognizances* or under this Act, shall be any objection to its reception in evidence, if the Court or Judge before whom it is tendered thinks proper to receive it. R. S. O. 1877, c. 62, s. 40.

Rev. Stat. c. 62.

Depositions.

Copies of depositions certified by person taking the same admissible in evidence.

37. Where an examination of a party or witness has been taken before a Judge or other officer or person appointed to take the same, copies of the examinations and depositions certified under the hand of the Judge, officer or other person taking the same, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. 42 V. c. 15, s. 3.

Proof of Wills.

In actions concerning real estate, probate, etc., to be *prima facie* evidence of will, etc., after certain notice, save where its validity is put in issue.

38. In any action where it is necessary to produce and prove an original will in order to establish a devise or other testamentary disposition of or affecting real estate, the party intending to establish in proof the devise or other testamentary disposition, may give notice to the opposite party ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial, or other proceeding to give in evidence as proof of the devise or other testamentary disposition, the probate of the will or letters of administration with the will annexed, or a copy thereof, stamped with the seal of the Surrogate Court granting the same, or with the seal of the

Court of Chancery, where the probate or letters of administration were granted by the former Court of Probate for Upper Canada; and in every such case the probate or letters of administration or copy thereof, respectively stamped as aforesaid, shall be sufficient evidence of such will, and of its validity and contents notwithstanding the same may not have been proved in solemn form, or have been otherwise declared valid in a contentious cause or matter, under *The Surrogate Courts Act*, unless the party receiving the notice within four days after the receipt, gives notice that he disputes the validity of the devise or other testamentary disposition. R. S. O. 1877, c. 62, s. 41. Rev. Stat. c. 50.

39. In every case in which in such action the original will is produced and proved, the Court or Judge before whom such evidence is given may direct by which of the parties the costs thereof shall be paid. R. S. O. 1877, c. 62, s. 42. As to costs of proving a will in an action.

40. In case of the death of a person in any of Her Majesty's possessions out of Ontario, after having made a will sufficient to pass real estate in Ontario, and whereby such estate has been devised, charged or affected, and in case such will has been duly proved in any Court having the proof and issuing probate of wills in any of such possessions, and remains filed in such Court, then in case notice of the intention to use such probate or certificate in the place of the original will, is given to the opposite party in such proceeding one month before the same is to be so used, the production of the probate of the will, or a certificate of the Judge, Registrar or Clerk of such Court, that the original is filed and remains in the Court, and purports to have been executed before two witnesses, shall in any proceeding in any Court in Ontario, concerning such real estate, be sufficient *prima facie* evidence of the will and the contents thereof, and of the same having been executed so as to pass real estate, without the production of the original will; but the probate or certificate shall not be used if, upon cause shewn before such Court, or a Judge thereof, the Court or Judge finds reason to doubt the sufficiency of the execution of the will to pass such real estate as aforesaid, and makes a rule or order disallowing the production of the probate. R. S. O. 1877, c. 62, s. 43. Proof in the case of will of real estate filed in courts in other British possessions.

41. The production of the certificate, in the last preceding section mentioned, shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the Judge, Registrar or Clerk, without proof of his appointment, authority or signature. R. S. O. 1877, c. 62, s. 44. Certificate to be *prima facie* evidence.

Copies of Registered Instruments.

42. The word "instrument" in the next succeeding three sections shall have the meaning assigned to the word "instrument" in section 2 of *The Registry Act*. R. S. O. 1877, c. 62, s. 47. Meaning of "instrument." Rev. Stat. c. 114, s. 2.

Registered
instrument
prima facie
evidence.

43. An exemplification or a certified copy of any registered instrument or memorial under the hand and seal of office of the Registrar in whose office the same is registered shall be received as *prima facie* evidence, in every Court in Ontario, of the original of the instrument or memorial, except in the cases provided for in section 45. R. S. O. 1877, c. 62, s. 45. See also cap. 114, s. 24.

Instrument
with certifi-
cate of regis-
tration *prima*
facie evidence.

Rev. Stat.
c. 114.

44. In case one of two or more original parts of any instrument is registered, the Registrar shall indorse upon each of such original parts, a certificate of the registration in the form of Schedule G to *The Registry Act*, and such original so certified shall be received as *prima facie* evidence of the registration and of the due execution of the same. R. S. O. 1877, c. 111, s. 56.

Certified
copies of regis-
tered instru-
ments may be
used instead of
originals after
notice.

45. In any action where it would be necessary to produce and prove an original instrument which has been registered in order to establish such instrument and the contents thereof, the party intending to prove such original instrument may give notice to the opposite party ten days at least before the trial, or other proceeding in which the said proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof, of the original instrument, a copy thereof certified by the Registrar, under his hand and seal of office, and in every such case the copy so certified shall be sufficient evidence of the original instrument, and of its validity and contents, unless the party receiving the notice within four days after such receipt, gives notice that he disputes the validity of the original instrument, in which case the costs of producing and proving the original may be ordered by the Court or Judge to be paid by any or either of the parties as may be deemed right. R. S. O. 1877, c. 62, s. 46.

Exception.

Costs in such
cases.

Copies of other written Instruments.

Copies of cer-
tain docu-
ments may be
admitted as
evidence on
certain con-
ditions.

46.—(1) In any action, or proceeding, in the cases of telegrams, letters, shipping bills, bills of lading, delivery orders, receipts, accounts and other written instruments used in business and other transactions, where it is necessary to prove the original document, the party intending to prove the original may give notice to the opposite party ten days at least before the trial or other proceeding in which the said proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence as proof of the contents, an instrument purporting to be a copy of the document.

Proviso.

(2) Such copy may then be inspected by the opposite party at some convenient time and place; and in every such case the copy shall without further proof be sufficient evidence of the contents of the original document, and be accepted and taken in lieu of the original, unless the party receiving the

notice within four days after the time mentioned therein for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the said trial or proceeding, and to require proof of the original; and the Court or Judge, before whom the question is raised may direct by which of the parties the costs which may thereupon attend any production or proof of the original document according to the rules of evidence heretofore existing, shall be paid. R. S. O. 1877, c. 62, s. 48.

MISCELLANEOUS PROVISIONS.

47.—(1) Where upon application for this purpose, it is made to appear to the High Court or a Judge thereof, or to a County Court Judge in this Province, that any Court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining the testimony in or in relation to any action, suit or proceeding pending in or before such foreign Court or tribunal, of any witnesses out of the jurisdiction thereof and within the jurisdiction of the Court or Judge so applied to, such Court or Judge may order the examination before the person appointed, and in a manner and form directed, by the commission, order or other process of such witnesses accordingly; and may by the same order, or a subsequent order, command the attendance of any persons named therein for the purpose of being examined, or the production of any writings or other documents mentioned in the order; and give all such directions as to the time, place and manner of the examination, and all other matters connected therewith as may appear reasonable and just; and the order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by the same Court or Judge in a cause depending in such Court or before such Judge.

Witness may be ordered to be examined in relation to matter pending before foreign tribunal.

(2) Every person whose attendance is so ordered shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the High Court.

Payment of expenses of witness.

(3) Every person examined under such commission or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and any other questions which, in a case pending in the Court by which or by a Judge whereof or before the Judge by whom the order for examination was made, the witness would be entitled to refuse to answer; and no person shall be compelled to produce at the examination, any writing or document which he would not be compellable to produce at the trial of such a cause.

Right of refusal to answer questions and to produce documents.

(4) Where the commission directs, or the instructions of the Court accompanying the same, direct that the person to be examined shall be sworn or shall affirm before the commissioner

Administration of oath.

or other person, the commissioner or other person shall have authority to administer an oath or affirmation to the person to be examined as aforesaid. 47 V. c. 10, s. 12.

Evidence in actions where in any person resident in Great Britain is a party.

48. In an action or other proceeding relating to any debt or account (other than an action by or on behalf of Her Majesty), wherein a person residing in Great Britain is a party, the evidence and examination of witnesses on behalf of either or any of the parties to the action or proceeding, shall be the same, and given in the same manner as in other actions or proceedings according to the practice of the Court. 45 V. c. 10, s. 6.

Evidence in actions.

Rev. Stat. c. 112, s. 1.

49. It shall not be necessary in an action to produce any evidence which by section 1 of *The Act to amend the Law of Vendor and Purchaser and to Simplify Titles*, is dispensed with as between vendor and purchaser; and the evidence therein declared to be sufficient as between vendor and purchaser shall be *prima facie* sufficient for the purposes of such action. R. S. O. 1877, c. 62, s. 49.

Attesting witness need not be called where he was required by law.

50. It shall not be necessary to prove by the attesting witness, any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto. R. S. O. 1877, c. 62, s. 50.

Comparison of disputed writing with genuine.

51. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same, may be submitted to the Court and jury, as evidence of the genuineness or otherwise of the writing in dispute. R. S. O. 1877, c. 62, s. 51.

When instruments offered in evidence may be impounded.

52. Where a document is received in evidence by virtue of this Act, the Court, Judge, Commissioner or other person acting or officiating judicially, who admits the same, may, direct the same to be impounded and kept in the custody of an officer of the Court, or other person, for such period and subject to such conditions as to the Court or person who admits the document seems meet, or until further order touching the same has been made either by such Court or by the Court to which the officer belongs, or by the person or persons who constituted such Court, or by some one of the Judges of the High Court or a County Court (as the case may be), on application made for that purpose. R. S. O. 1877, c. 62, s. 52.

[See also the *Act to amend the Law of Vendor and Purchaser and to Simplify Titles*, Rev. Stat. c. 112.]

CHAPTER 62.

An Act respecting Commissioners for taking Affidavits and Recognizances.

COMMISSIONERS FOR TAKING AFFIDAVITS AND RECOGNIZANCES IN ONTARIO, ss. 1-9.	COMMISSIONERS FOR TAKING AFFIDAVITS IN OTHER PROVINCES FOR USE IN ONTARIO, s. 11.
COMMISSIONERS WITHOUT ONTARIO, ss. 10, 11.	AUTHORITY OF COMMISSIONERS, s. 12.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

COMMISSIONERS WITHIN ONTARIO.

1. The Justices of the High Court or any two of them of whom the President of any Division of the said Court shall be one are hereby authorized to issue under the seal of the Supreme Court commissions, and the commissioners so appointed shall have the same powers as commissioners who have been appointed under any previous statute in that behalf, from time to time empowering such and so many persons as they think fit and necessary in the several counties within Ontario or in any Temporary Judicial District, Provisional Judicial District, Territorial District, or Provisional County, or in any other territory, not being part of any such district or of any county, to take and receive all and every such affidavits and affirmations (in cases where by law an affirmation is allowed) as any person or persons desire to make in or concerning any cause, matter or thing depending, or in any wise concerning any of the proceedings in the Courts of the Province. R. S. O. 1877, c. 63, s. 1; c. 80 s. 1; 45 V. c. 11, s. 1, *part*.

Appointment of Commissioners for taking affidavits.

2. The Justices aforesaid, may from time to time empower so many of the said commissioners, or such and so many persons as they think fit and necessary to be commissioners in the several counties in Ontario, to take and receive every such recognizance of bail as any person may at any time desire to acknowledge or make in any action depending in the High Court or County Court in such manner and form and by such recognizance of bail as the Judges of the said Courts may take. R. S. O. 1877, c. 80, s. 1, *part*; 45 V. c. 11, s. 1, *part*.

Appointment of commissioners for taking recognizances of bail.

Recognizance
to be filed.

3. The recognizance of bail, or bail piece so taken as aforesaid, shall be filed in the office of the Clerk or Deputy Clerk of the Crown in the County in which the same has been taken, together with an affidavit of the due taking thereof by some credible person present at the taking thereof. R. S. O. 1877, c. 80, s. 2.

Recognizances
may be except-
ed to.

4. Every recognizance so taken and filed shall be of the like effect and subject to exception as to the bail, in like manner and within the same time as if taken in open Court. R. S. O. 1877, c. 80, s. 3.

Any Judge
of the High
Court
may take bail.

5. Any Judge of the High Court may take recognizances of bail in any action, which recognizances shall be filed as aforesaid without an affidavit, and shall be of the like effect as if taken in open Court. R. S. O. 1877, c. 80, s. 4.

The Judges
and Clerks of
County Courts
may take affi-
davits.

6. The Judges and clerks of the several County Courts respectively, may take all affidavits, affirmations and recognizances of bail required to be taken in their respective Courts. R. S. O. 1877, c. 63, s. 6; c. 80, s. 5.

Each commis-
sioner to be
an officer of
the court.

7. Every commissioner for taking affidavits appointed by the High Court shall be deemed to be an officer of the said Court. R. S. O. 1877, c. 63, s. 3.

Revocation of
commission.

8. The High Court may revoke the commission of any such commissioner, whether the commission was issued by such Court, or by any Court formerly authorized to issue commissions, and such revocation shall operate as a revocation for all purposes. R. S. O. 1877, c. 63, s. 4.

Commission-
ers for United
Counties resi-
dent in Junior
County may,
after separa-
tion, act for
Junior
County.

9.—(1) All commissioners appointed for any union of counties, and resident within the junior county, at the time of the separation thereof from the union, may exercise the same powers within the junior county to take and receive affidavits and affirmations and to take and receive bail, as if they had received their commissions or appointments respectively for the junior county at the time of the separation of such union of counties.

And for
Junior County
only.

(2) No commissioner shall have or exercise any such powers by virtue of his commission, save in the junior county. R. S. O. 1877, c. 63, s. 5; c. 80, s. 7.

COMMISSIONERS OUT OF ONTARIO.

Lieutenant-
Governor may
appoint com-
missioners for
taking affida-
vits, etc., with-
out Ontario.

10.—(1) The Lieutenant-Governor may, by commission under his hand and seal, from time to time empower such persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations without this Province in or concerning any cause, matter or thing depending or in anywise concerning any of the proceedings

to be had in the High Court or any other Court in this Province, and every oath, affidavit, declaration, or affirmation taken or made as aforesaid shall be as valid and effectual, and shall be of the like force and effect to all intents and purposes as if such oath, affidavit, declaration or affirmation had been administered, taken, sworn, made or affirmed before a commissioner for taking affidavits within the Province, or other competent authority.

Effect of such affidavits, etc.

(2) The commissioners so appointed shall be styled "Commissioners for taking affidavits in and for the courts in Ontario." R. S. O. 1877, c. 63, s. 7.

Style of commissioners.

11. The Justices of the High Court or any two of them, of whom the President of any Division of the said Court shall be one, are hereby authorized to issue under the seal of the Supreme Court commissions from time to time empowering such and so many persons as they think fit and necessary to take and receive affidavits in any Province in the Dominion, in or concerning any cause, matter or thing depending, or in anywise concerning any of the proceedings to be had in the said Court, or in any other Court of Record in Ontario; and every affidavit taken as aforesaid shall be of the same force as if taken in the particular Court in which the same is entitled or intended to be used. R. S. O. 1877, c. 63, s. 8.

Judges of the High Court may appoint commissioners in any Province.

AUTHORITY OF COMMISSIONERS, ETC.

12. Every commissioner heretofore or hereafter appointed for taking affidavits and affirmations within this Province, and every person heretofore or hereafter authorized to take affidavits to be used in any Court of this Province, may take affidavits and affirmations which any person desires to make in or concerning any action or proceeding pending in the High Court, and in the Court of Appeal, and in any County or Division Court, or before a Judge or Judges of any of said Courts, and in or concerning any application or matter made or pending before any Judge of any Court in the Province which, by any statute now or hereafter in force in Ontario, and within the legislative authority of the Province, such Judge is authorized to hear and determine, or in which he is authorized to make any order, although the application or matter be not made or pending in any Court and may also take any affidavit or affirmation authorized to be made by any statute. R. S. O. 1877, c. 63, s. 9; 44 V. c. 5, s. 73.

The commissioners, etc., may take affidavits in all courts or in matters pending before a Judge and affidavits authorized to be made by any statute.

[See also *The Registry Act*, c. 114, for powers under that Act.]

[As to powers of *Notaries Public* to act as Commissioners see *Cap. 153*.]

CHAPTER 63.

An Act respecting the Costs of Distress.

FEES WHICH MAY BE CHARGED, s. 1.

PENALTY FOR EXACTING UNAUTHORIZED FEES, ss. 2-6.

Costs where complaint unfounded, s. 7.

Landlord not liable unless he

personally made levy, s. 8.

Right of action unaffected, s. 9.

Forms of orders, etc., s. 10.

COPY OF CHARGES TO BE GIVEN WITH DISTRESS, s. 11.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Fees to be charged, and services for which the same may be charged.

1. No person making distress for rent or for a penalty where the sum demanded and due does not exceed \$80, in respect of the rent or penalty, and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the same into effect, shall take or receive, from any person or out of the produce of the chattels distrained and sold, any other costs in respect of the distress, than such as are set forth in Schedule A hereunto annexed, and no person shall make a charge for anything mentioned in the said Schedule, unless such thing has been really done. R. S. O. 1877, c. 65, s. 1.

Penalty for extortion.

2. If a person offends against any of the provisions in the preceding section the party aggrieved may apply to a Justice of the Peace for the county, city or town where the offence was committed, for the redress of the grievance, whereupon the Justice shall summon the person complained of to appear before him, at a reasonable time to be fixed in the summons, and the Justice shall examine into and hear the complaint and defence; and if it appears that the person complained of has so offended, the Justice shall order and adjudge treble the amount of the money unlawfully taken and full costs to be paid by the offender to the party aggrieved. R. S. O. 1877, c. 65, s. 2.

How penalty to be levied.

3. In case of non-payment of money or costs so adjudged the Justice shall forthwith issue his warrant to levy the same by distress and sale of the goods and chattels of the party convicted, rendering to him the overplus, if any. R. S. O. 1877, c. 65, s. 3.

Commitment.

4. In case no sufficient distress can be had, the Justice shall by warrant under his hand and seal, commit the party to the Common Gaol within the limits of his jurisdiction, there to

remain until the order or judgment is satisfied. R. S. O. 1877, c. 65, s. 4.

5. The Justice, at the request of either party, may summon and examine witnesses, and may administer an oath to them touching the complaint, or defence. R. S. O. 1877, c. 65, s. 5. Justice may summon witnesses.

6. If a person so summoned neglects to obey the summons without reasonable or lawful excuse, or refuses to be examined upon oath (or affirmation, as the case may be), he shall forfeit a sum not exceeding \$8, to be adjudged, levied and paid in such manner, and by such means, and with such power of commitment, as hereinbefore directed with respect to orders and judgments made or given at the instance of original complainants, excepting as regards the form thereof, which may be as the Justice thinks fit. R. S. O. 1877, c. 65, s. 6. Penalty for disobeying.

7. If the Justice finds that the complaint of the party aggrieved is not well founded, he may order and adjudge costs, not exceeding \$4, to be paid by the complainant to the party complained against, which order shall be carried into effect and levied and paid in the manner hereinbefore directed with respect to orders and judgments made or given at the instance of original complainants. R. S. O. 1877, c. 65, s. 7. Costs where complaint unfounded.

8. Nothing hereinbefore contained shall empower the Justice to make any order or judgment against the landlord for whose benefit the distress has been made, unless the landlord personally levied the distress. R. S. O. 1877, c. 65, s. 8. Justices not to make orders against landlord, etc.

9. No person aggrieved by a distress for rent or a penalty, or by any proceeding had in the course thereof, or by any costs or charges levied upon him in respect of the same, shall be barred from any action or remedy which he might have had before the passing of this Act, except so far as any complaint preferred under this Act has been determined by the order and judgment of the Justice before whom it has been heard and determined; and in case the matter of the complaint is made the subject of an action, the order and judgment may be given in evidence, under the defence of not guilty. R. S. O. 1877, c. 65, s. 10. Party aggrieved by distress for rent not barred of his action, etc.

10. Orders and judgments on such complaints shall be made in the words or to the effect of the forms given in Schedule B hereunto annexed; and may be proved before any Court, by proof of the signature of the Justice to such orders and judgments. R. S. O. 1877, c. 65, s. 11. Form of order and judgment.

11. Every person who makes and levies a distress shall give a copy of demand, and of all the costs and charges of the distress, signed by him, to the person on whose goods and chattels the distress is levied, although the amount of the rent or penalty demanded exceeds the sum of \$80. R. S. O. 1877, c. 65, s. 9. *See also* Cap. 143, s. 27. Persons levying distress to give copy of charges to party distrained.

SCHEDULE A.

(Section 1.)

COSTS AND CHARGES ON DISTRESS FOR SMALL RENTS AND PENALTIES.

Levying distresses under \$80.....	\$1 00
Man keeping possession, per diem.....	0 75
Appraisement, whether by one appraiser or more— <i>two cents in the dollar on the value of the goods</i> ;	
If any printed advertisement, not to exceed in all.....	1 00
Catalogues, sale and commission, and delivery of goods— <i>five cents in the dollar on the net produce of the sale.</i>	

R. S. O. 1877, c. 65, Sched. A.

SCHEDULE B.

(Section 10.)

FORM 1.

FORM OF THE ORDER AND JUDGMENT OF THE JUSTICE BEFORE WHOM COMPLAINT IS REFERRED WHEN THE ORDER AND JUDGMENT IS FOR THE COMPLAINANT.

In the matter of complaint of *A. B.* against *C. D.*, for the breach of the provisions of the Act Chapter 63 of *The Revised Statutes of Ontario, 1887*, entitled "*An Act respecting the Costs of Distress*," I, *E. F.*, a Justice of the Peace for the _____, do order and adjudge that the said *C. D.* shall pay to *A. B.* the sum of _____, as a compensation and satisfaction for unlawful charges and costs levied and taken from the said *A. B.*, under a distress for (as the case may be), and the further sum of _____ for costs in this complaint.

(Signed) *E. F.*

R. S. O. 1877, c. 65, Sched. B. Form 1.

FORM 2.

FORM OF THE ORDER AND JUDGMENT OF THE JUSTICE WHEN HE DISMISSES THE COMPLAINT AS UNFOUNDED, WITH OR WITHOUT COSTS, AS THE CASE MAY BE.

In the matter of complaint of *A. B.* against *C. D.*, for the breach of the provisions of the Act Chapter 63 of *The Revised Statutes of Ontario, 1887*, entitled "*An Act respecting the Costs of Distress*," I, *E. F.*, a Justice of the Peace in and for the _____, do order and adjudge that the complaint of the said *A. B.* is unfounded; (if costs are given add, and I do further order and adjudge that the said *A. B.* shall pay unto the said *C. D.* the sum of _____.)

(Signed) *E. F.*

R. S. O. 1877, c. 65, Sched. B. Form 2.

CHAPTER 64.

• An Act respecting Execution.

SHORT TITLE, s. 1.	Money and securities, ss. 17-20.
GOODS EXEMPT FROM SEIZURE, ss. 2-7.	WHAT MAY BE SOLD UNDER EXECUTION AGAINST LANDS:
DEBTS EXEMPT FROM SEIZURE, s. 8.	Equity of redemption of lands, ss. 21-24.
WHAT MAY BE SEIZED UNDER EXECUTION AGAINST GOODS:	Contingent interests, s. 25.
Stocks in certain companies, ss. 9-15.	SALES AGAINST EXECUTORS, s. 26.
Equity of redemption of goods or chattels mortgaged, s. 16.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Execution Act.*" R. S. O. Short title. 1877, c. 66, s. 1.

EXEMPTION.

2. The following chattels are hereby declared exempt from seizure under any writ, in respect of which this Province has legislative authority, issued out of any Court whatever in this Province, namely:

1. The bed, bedding and bedsteads (including a cradle), in ordinary use by the debtor and his family;

2. The necessary and ordinary wearing apparel of the debtor and his family;

3. One cooking stove with pipes and furnishings, one other heating stove with pipes, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs and shovel, one coal scuttle, one lamp, one table, six chairs, one washstand with furnishings, six towels, one looking glass, one hair brush, one comb, one bureau, one clothes press, one clock, one carpet, one cupboard, one broom, twelve knives, twelve forks, twelve plates, twelve tea cups, twelve saucers, one sugar basin, one milk jug, one tea pot, twelve spoons, two pails, one wash tub, one scrubbing brush, one blacking brush, one wash board, three smoothing irons, all spinning wheels and weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated, not exceeding in value the sum of \$150;

Fuel and provisions.

4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of \$40 ;

Animals.

5. One cow, six sheep, four hogs, and twelve hens, in all not exceeding the value of \$75, and food therefor for thirty days, and one dog ;

Tools.

6. Tools and implements of or chattels ordinarily used in the debtor's occupation, to the value of \$100 ;

Bees.

7. Bees reared and kept in hives to the extent of fifteen hives. 50 V. c. 10, s. 1.

Debtor may take proceeds of sale of implements, etc., in money.

3. The debtor may in lieu of tools and implements of or chattels ordinarily used in his occupation referred to in subdivision 6 of section 2 of this Act, elect to receive the proceeds of the sale thereof up to \$100, in which case the officer executing the writ shall pay the net proceeds of such sale if the same shall not exceed \$100, or, if the same shall exceed \$100, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under said subdivision 6, and the sum to which a debtor shall be entitled hereunder shall be exempt from attachment or seizure at the instance of a creditor. 50 V. c. 10, s. 2.

Goods exempted from seizure after death of the debtor to go to widow and family.

4. The chattels so exempt from seizure as against a debtor shall, after his death, be exempt from the claims of creditors of the deceased, and the widow shall be entitled to retain the exempted goods for the benefit of herself and the family of the debtor, or, if there is no widow, the family of the debtor shall be entitled to the exempted goods and the goods so exempt shall not be liable to seizure under attachment against the debtor as an absconding debtor. R. S. O. 1877, c. 66, s. 3.

Right of selection.

5. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the several chattels exempt from seizure. R. S. O. 1877, c. 66, s. 4.

Exception.

6. Nothing herein contained shall exempt any article enumerated in subdivisions 3, 4, 5, 6 and 7 of section 2 of this Act from seizure in satisfaction of a debt contracted for the identical article. R. S. O. 1877, c. 66, s. 5.

Goods liable to seizure to continue so liable for debts contracted before Oct. 1, 1887.

7. Notwithstanding anything contained in the next preceding five sections, the various goods and chattels which are now liable to seizure in execution for debt shall, as respects debts which have already been or shall be contracted prior to the first day of October, 1887, remain liable to seizure and sale in execution provided that the writ of execution under which

they are seized has endorsed upon it a certificate signed by the Judge of the Court out of which the writ issues certifying that it is for the recovery of a debt contracted before the date hereinbefore mentioned. 50 V. c. 10, s. 3.

WHAT MAY BE SEIZED UNDER EXECUTION AGAINST GOODS.

1. *Stocks in certain Companies.*

8.—(1) No debt due or accruing to a mechanic, workman, labourer, servant, clerk or employee, for or in respect of his wages or salary, shall be liable to seizure or attachment, unless such debt exceeds the sum of \$25, and then only to the extent of such excess.

Debts due to mechanics, etc., for wages, not to be attached, except to excess over \$25

(2) Nothing in the preceding sub-section contained shall affect or impair the right or remedies of any creditor whose debt has been contracted before the first day of October, 1874. R. S. O. 1877, c. 50, ss. 318, 319.

Saving clause as to debts created before 1st Oct., 1874.

9. All shares and dividends of stockholders in any incorporated bank or other incorporated company in Ontario, having transferable joint stock, shall be held to be personal property, and shall be liable to *bona fide* creditors for debts, and may be attached, seized and sold under writs of execution in like manner as other personal property. R. S. O. 1877, c. 66, s. 20.

Shares and dividends etc., liable to seizure, etc.

10. The sheriff to whom a writ of execution is addressed, on being informed on behalf of the plaintiff that the defendant has such stock, and on being required to seize the same, shall forthwith serve a copy of the writ on the company with a notice that all the shares which the defendant has in the stock of the company are seized accordingly; and from the time of service no transfer of the stock by the defendant shall be valid, unless and until the seizure has been discharged; and every seizure, and sale made under the same, shall include all dividends, premiums, bonuses, or other pecuniary profits upon the shares seized, and the same shall not after notice as aforesaid, be paid by the company to any one, except the person to whom the shares have been sold by the sheriff, unless and until the seizure is discharged, on pain of paying the same twice. R. S. O. 1877, c. 66, s. 21.

Sheriff to serve a copy of the writ on the company with notice of seizure.

Stock not to be transferred while under seizure and sale under seizure to include all dividends, etc.

11. If the company has more than one place where service of process may be made upon them, and there is some place where transfers of stock may be notified to and entered by the company so as to be valid as regards the company, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice shall not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the company to pay twice, or to affect the rights of any *bona fide* purchaser, until after the expira-

Provisions for the case of the company having more than one place where service of process may be legally made upon them.

tion of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it shall be the duty of the company to transmit by post. R. S. O. 1877, c. 66, s. 22.

Shares to be personal property at the place where notice of seizure served.

12. The shares in the said stock shall be held to be personal property, found by the sheriff in the place where notice of the seizure thereof is served as aforesaid. R. S. O. 1877, c. 66, s. 23.

Mode of proceeding to sale.

13. Where such share is sold under a writ of execution, the sheriff, by whom the writ has been executed, shall, within ten days after sale, serve upon the company at some place where service of process may be made, an attested copy of the writ of execution, with his certificate endorsed thereon, certifying the name of the purchaser who shall thereafter be the holder of the share, and shall have the same rights, and be under the same obligations as if he had duly purchased the share from the proprietor thereof; and the proper officer of the company shall enter such sale as a transfer in the manner by law provided. R. S. O. 1877, c. 66, s. 24.

Saving of all other remedies.

14. Nothing in this Act shall be construed to impair the effect of any remedy which the plaintiff might, without this Act, have had against any shares of such stock as aforesaid, by attachment or otherwise, and the provisions of the next preceding four sections shall apply to such remedy in so far as they can be applied thereto. R. S. O. 1877, c. 66, s. 25.

What shall be deemed incorporated companies.

15. All corporations, established for the purpose of trade or profit, or for the construction of any work, or for any purpose from which revenue is intended to be derived, shall be deemed incorporated companies for the purpose of the next preceding six sections of this Act, though they are not called companies in the Act or charter incorporating them. R. S. O. 1877, c. 66, s. 26.

2. Interest of a mortgagor in goods mortgaged.

The interest of a mortgagor in goods mortgaged may be sold in execution.

16. Under any writ of execution against goods, the sheriff or other officer to whom the same is directed may seize and sell the interest or equity of redemption in any goods or chattels, including leasehold interests in any lands, of the party against whom the writ has issued, and such sale shall convey whatever interest the mortgagor had in the goods and chattels at the time of the seizure. R. S. O. 1877, c. 66, s. 27.

3. Money and Securities.

Sheriff may seize money and securities for money.

17. The sheriff or other officer having the execution of a writ against goods sued out of the High Court, or out of a County Court, shall seize any money or bank-notes (including

any surplus of a former execution against the debtor), and any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties, or other securities for money, belonging to the person against whose effects the writ of execution has issued, Rev. Stat. c. 65. and subject to the provisions of *The Creditors' Relief Act*, shall pay or deliver to the party who sued out the execution, the money or bank-notes so seized, or a sufficient part thereof, and shall hold such cheques, bills of exchange, promissory notes, bonds, specialties or other securities for money, as security for the amount by the writ and endorsement thereon directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff or other officer may sue in his own name for the recovery of the sums secured thereby, when the time of payment thereof has arrived. Money seized to be paid over to execution creditor. R. S. O. 1877, c. 66, s. 28. Sheriff to sue for securities.

18. The payment to the sheriff or other officer by the party liable on such cheque, bill of exchange, promissory note, bond, specialty or other security, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution (as the case may be), from his liability thereon. Payment to sheriff to be valid R. S. O. 1877, c. 66, s. 29.

19. Subject to the provisions of *The Creditors' Relief Act*, the sheriff or other officer shall pay over to the party who sued out the writ the money so recovered, or a sufficient sum to discharge the amount by the writ directed to be levied, and if, after satisfaction of the amount together with sheriff's poundage and expenses, a surplus remains in the hands of the sheriff or other officer, the same shall be paid to the party against whom the writ issued. Sheriff to pay over proceeds. Rev. Stat. c. 65. R. S. O. 1877, c. 66, ss. 30, 31. Surplus to be paid to the execution debtor.

20. No sheriff or other officer shall be bound to sue any party liable upon such cheque, bill of exchange, promissory note, bond, specialty or other security, unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff or officer from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof; and the expenses of the bond may be deducted out of any money recovered in the action. Sheriff not bound to sue until indemnified. R. S. O. 1877, c. 66, s. 32.

WHAT MAY BE SOLD UNDER EXECUTION AGAINST LANDS.

1. *Equity of Redemption.*

21. Wherever the word "mortgagor" occurs in the next succeeding three sections, it shall be read and construed as if the words "his heirs, executors, administrators or assigns, or person having the equity of redemption," were inserted immediately after the word "mortgagor." Interpretation R. S. O. 1877, c. 66, s. 38.

The interest of
a mortgagor
in lands
mortgaged
may be sold
in execution.

22.—(1) The sheriff or other officer to whom a writ of execution against the lands and tenements of a mortgagor of real estate is directed, may seize, sell and convey all the interest of the mortgagor in the mortgaged lands and tenements.

(2) The equity of redemption in a freehold mortgage of real estate shall be saleable under an execution against the lands and tenements of the owner of the equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as lands and tenements can now be sold under an execution. R. S. O. 1877, c. 66, s. 35.

The effect of

23. The effect of the seizure or taking in execution, sale and conveyance, of mortgaged lands and tenements, shall be to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the writ was placed in the hands of the sheriff or other officer to whom the same is directed, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place; and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien which at the time of the sale existed upon the lands or tenements so sold, in like manner as the mortgagor might have done, and thereupon the purchaser, his heirs and assigns, shall acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor; and on payment of the mortgage money to the mortgagee by the purchaser, his heirs or assigns, the mortgagee, his heirs or assigns, shall, if required, give to the purchaser, his heirs or assigns, at his or their charge, a certificate of payment or satisfaction of the mortgage, which certificate may be in the following form, that is to say:

To the Registrar of the County of

I, *A. B.*, of , do certify that *C. D.*; of
who has become the purchaser of the interest of *E. F.*, of

has satisfied all money due upon a certain mortgage made by the said *E. F.* to me, bearing date the day of 18 and registered at of the clock in the forenoon (as the case may be) of the day of , in the same year (or as the case may be), and that such mortgage is therefore discharged. As witness my hand, this day of , 18 .

(Signed) *A. B.*

E. H., of , }
G. H., of , } Witnesses.

And such certificate shall be of the like effect, and shall be acted upon by registrars and others to the same extent as if the same had been given to the mortgagor. R. S. O. 1877, c. 66, s. 36.

24. A mortgagee of lands and tenements so sold, or the heirs or assigns of the mortgagee (being or not being plaintiff or defendant in the judgment whereon the writ of execution under which the sale takes place has issued), may be the purchaser at the sale, and shall acquire the same estate, interest and rights thereby as any other purchaser: but in the event of the mortgagee becoming the purchaser, he shall give to the mortgagor a release of the mortgage debt; and if another person becomes the purchaser, and if the mortgagee enforces payment of the mortgage debt against the mortgagor, then the purchaser shall repay the debt and interest to the mortgagor, and in default of payment thereof within one month after demand, the mortgagor may recover the debt and interest from the purchaser, and shall have a charge therefor upon the mortgaged lands. R. S. O. 1877, c. 66, s. 37.

Mortgagee
may beco-
purchaser.
sheriffs'

2. Contingent Interests.

25.—(1) Any estate, right, title or interest in lands which, under section 9 of *The Act respecting the Transfer of Real Property*, may be conveyed or assigned by any person, or over which he has any disposing power which he may, without the assent of any other person, exercise for his own benefit, shall be liable to seizure and sale under execution against such person, in like manner and on like conditions as lands are by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign the same to the purchaser in the same manner and with the same effect as the person might himself have done. R. S. O. 1877, c. 66, s. 39.

Any estate
which may be
conveyed, etc.,
under Rev.
Stat. c. 100,
s. 9, to be
liable to
execution.

(2) The right of a married woman to dower shall not hereafter be deemed seizable or saleable under execution before the death of her husband. 50 V. c. 8, sched.

Except incho-
ate right of
dower.

SALES AGAINST EXECUTORS.

26. The title and interest of a testator or intestate in real estate may be seized and sold under a judgment and execution recovered by a creditor of the testator or intestate, against his executor or administrator, in the same manner and under the same process that the same could be sold under a judgment and execution against the deceased, if living. R. S. O. 1877, c. 66, s. 40. See also *Rev. Stat. Cap. 110, s. 14.*

Interest in real
estate to be
seizable on a
judgment
against an
executor.

CHAPTER 65.

An Act to Abolish Priority among Execution Creditors.

SHORT TITLE, s. 1.	STATEMENT TO BE KEPT IN SHERIFF'S OFFICE PENDING DISTRIBUTION, s. 30.
INTERPRETATION, s. 2.	SHERIFF TO GIVE INFORMATION AS TO ESTATE, s. 31.
PRIORITY AMONG EXECUTION CREDITORS ABOLISHED, s. 3.	DISTRIBUTION BY SHERIFF WHERE AMOUNT LEVIED IS INSUFFICIENT TO MEET ALL CLAIMS, s. 32.
NOTICE TO BE ENTERED BY SHERIFF AFTER LEVY, s. 4.	DIRECTIONS BY JUDGE TO AVOID UNNECESSARY PARTIES AND TRIALS, s. 33.
DISTRIBUTION OF MONEY LEVIED, ss. 4, 5, 22, 32.	DIRECTION BY JUDGE TO SHERIFF WHERE CLAIM IS DISPUTED, s. 34.
PROCEEDINGS WHERE DEBTOR ALLOWS EXECUTIONS TO REMAIN UNSATISFIED, ss. 6-21.	DECISIONS TO BIND ALL CREDITORS, s. 35.
PROCEDURE BY SHERIFF ON ATTACHMENT UNDER ABSCONDING DEBTORS Act, s. 22.	SHERIFF TO DEPOSIT MONEYS IN BANK, s. 36.
COSTS OF CLAIMANT, s. 23.	ATTACHMENT OF DEBTS OWING TO EXECUTION DEBTOR, s. 37.
PAYMENT TO SHERIFF OF FUND IN COURT, s. 24.	APPEAL, s. 38.
SHERIFF MAY OBTAIN GOODS IN HANDS OF DIVISION COURT BAILIFF, s. 25.	APPLICATION OF S. 107 OF JUDICATURE ACT, s. 39.
APPORTIONMENT WHERE AMOUNTS LEVIED INSUFFICIENT TO PAY ALL CLAIMS, s. 26.	POWERS OF JUDGE, s. 40.
LEVYING INTEREST AND COSTS, s. 27.	DEFECTS OF FORM IN PROCEEDINGS, s. 41.
SHERIFF'S POUNDAGE, s. 28.	SCALE OF FEES, s. 42.
MONEY MADE ON ONE WRIT TO BE CONSIDERED MADE ON ALL ENTITLED TO BENEFIT THEREOF, s. 29.	ACT NOT TO INTERFERE WITH THE INSOLVENT LAWS, s. 43.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Creditors' Relief Act.*" 43 V. c. 10, s. 1.

Interpretation.

2. In this Act the word "sheriff" shall include coroners; the word "judge" shall mean the judge of the county court of the county or district in which the claims are filed, and shall include a junior or deputy-judge, or a judge of another county authorized to act for the judge of the county court in which the claims are filed. If a judge is disqualified to act in a matter

arising under this Act, the Judge of the County Court of an adjoining county shall have jurisdiction to act in his place.
43 V. c. 10, s. 2.

3. Subject to the provisions hereinafter contained, there shall be no priority among creditors by execution from the High Court or County Courts. 43 V. c. 10, s. 4.

4.—(1) In case a sheriff levies money upon an execution against the property of a debtor, he shall forthwith enter in a book to be kept in his office, open to public inspection without charge, a notice stating that such levy has been made, and the amount thereof; and the money shall thereafter be distributed ratably, amongst all execution creditors and other creditors whose writs, or certificates given under this Act, were in the sheriff's hands at the time of the levy, or who shall deliver their writs or certificates to the said sheriff within one month from the entry of notice; subject, however, to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose writ the amount was made.

(2) The notice shall state the day upon which it was entered and may be in Form A, given in the schedule hereto. 43 V. c. 10, s. 5 (1, 2); 49 V. c. 16, s. 35.

(3) Where proceedings are taken by the sheriff or other officer for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* (in proportion to the amount of their executions or certificates) to the expense of contesting any adverse claim, shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates. The Court or Judge may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client shall be a first charge upon the moneys or goods which may be found by the proceedings to be applicable upon the executions or certificates. 50 V. c. 8, Sched.

(4) In case the sheriff shall, subsequently to the entry of the notice, but within the month, levy a further amount from the property of a debtor, the same shall be dealt with as if such amount had been levied prior to the entry of the notice, but if after the month a further amount is levied a new notice shall be entered; and the distribution to be made of the amount so levied and of the further amount levied within a month of the entry of the last mentioned notice shall be governed by the entry thereof in accordance with the foregoing provisions of this section; and so on from time to time. 43 V. c. 10, s. 5 (3).

[As to rights of employees of execution debtors, see Cap. 127.]

Service on
solicitor.

5. No creditor shall be entitled to share in the distribution of money levied from the property of a debtor unless either by the delivery of a writ of execution, or otherwise under this Act, he has established a claim against the debtor either alone or jointly with some other person. 43 V. c. 10, s. 6.

Proceedings
where debtor
allows execu-
tions to remain
unsatisfied.

6. If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff, to remain unsatisfied in the sheriff's hands till within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it is placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors as claimants in respect of debts which are overdue. 43 V. c. 10, s. 7, 1st part.

Affidavit by
creditor.

7.—(1) An affidavit to the effect of form B, in the schedule to the Act, of the debt and the particulars thereof, may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts. Prior to or simultaneously with the filing with the clerk of the County Court of the affidavit, there shall be filed with the clerk the certificate of the sheriff, or an affidavit, shewing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act.

Service on
debtor.

(2) The claimant is to serve on the debtor one of the duplicates, and a notice stating that the claimant intends to file the other duplicate with the clerk of the County Court by reason of there being in the sheriff's hands a writ of execution against the goods and chattels (or lands) of the debtor, and that the claimant intends to call on the sheriff to levy the said debt out of the property of the debtor under the authority of this Act: which notice is to contain the other particulars, and may be in the form C, given in the schedule to this Act. The notice may be either attached to the affidavit served, or endorsed thereon; where the affidavit is to be served out of Ontario the Judge shall limit the time at which the next step may be taken by the claimant as hereinafter provided. 43 V. c. 10, s. 7 (1, 2).

Notice by
debtor of
address for
service.

8.—(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon any solicitor in the Province, whose name and address shall be given, or by mailing the same to an address stated in the notice: the sheriff shall thereupon enter the notice in the said book, and so long as any execution, which was in the sheriff's hands at the time the notice was given shall remain in his hands, shall repeat such entry immediately below any notice (Form A) given in respect of the execution, unless the notice be revoked in writing, in which case the entry or entries thereof shall be marked "revoked ;"

(2) So long as the notice remains unrevoked as aforesaid, an affidavit of claim and accompanying notice under this Act, may be served upon an execution debtor by serving the same upon the solicitor in accordance with this Act, where a solicitor is named, or if mailing is required, then by mailing the same, enclosed in an envelope, prepaid and registered, to the address given in the notice.

Who entitled to share in distribution.

(3) In case the notice (Form C) served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon the claimant, or does not give the name and address of some solicitor in the Province who may be served in the claimant's behalf, service of any notice, paper or document requiring service may be made upon the claimant by mailing the same, prepaid and registered, enclosed in an envelope addressed to the claimant at the county town.

Service on claimant.

(4) The claimant is to file with the clerk of the County Court of the County, the sheriff of which has the execution, one of the said duplicate affidavits of claim, and a copy of the said notice, with an affidavit of due service; which affidavit may be in the Form D.

Affidavits to be filed with clerk of county court.

(5) The copy of affidavit and the notice shall, where practicable, be personally served upon the debtor; but if it be made to appear to a Judge that the claimant is unable to effect prompt personal service, the Judge may order substituted or other service, or may appoint some act to be done which shall be deemed sufficient service. 43 V. c. 10, s. 7 (3-7).

Mode of service.

9.—(1) If the claim is not contested in manner hereinafter mentioned, the County Court clerk—after ten days from the day of personal service, or service under sub-section 2 of section 8, or within the time mentioned in the order (as the case may be), on application and the filing with him of proof of personal service upon the debtor of an affidavit and notice in accordance with this Act, or proof of compliance with a Judge's order in that behalf, or upon the determination of the dispute in favour of the claimant, either in whole or in part—shall deliver to the creditor, or any one on his behalf, a certificate to the effect of Form E, in the schedule hereto; and in case the claim is only disputed as to a part, the creditor may elect, by a writing filed with the clerk, to abandon such part and obtain a certificate as to the residue.

Certificate to be given to creditor where claim not disputed.

(2) This certificate is to be delivered to the sheriff, and thereby from the time of the delivery the claimant shall be deemed to be an execution creditor within the meaning of this Act, and to be entitled to share in whatever is made under the executions of creditors in the sheriff's hands, as if he had delivered to the sheriff an execution against lands or goods, or both, as the case may be, and the certificate is in like manner to bind the lands and goods of the debtor; subject, however, to the debt being afterwards disputed as hereinafter provided for.

Effect of certificate.

Certificate an execution for interpleader purposes.

Address for service to be endorsed on certificate.

(3) A certificate under this Act shall in interpleader proceedings be deemed to be an execution.

(4) If the certificate is obtained by a solicitor, the name and place of abode of the solicitor are to be endorsed thereon; and if the certificate is sued out by the claimant in person there shall be endorsed thereon a statement of some place in, or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon the claimant; and, in default thereof, service of any notice, paper or document requiring service, may be made upon the claimant by mailing the same, prepaid and registered, enclosed in an envelope addressed to the claimant at the county town.

On receipt of certificate sheriff to make further levy.

(5) On receiving the certificate the sheriff shall make a further seizure of the lands and tenements, or goods and chattels, as the case may be (if any), of the debtor to the amount of the debt so claimed, and the sheriff's fees; and so on from time to time in case more notices are received after the further seizure so made. 43 V. c. 10, s. 7 (8-12).

Disputing claim.

10—(1) The claim may be contested by the execution debtor or by a creditor interested in contesting the same.

Affidavit of debtor.

(2) If the debtor contests the same, he is for that purpose to file with the clerk an affidavit stating that he has a good defence to the claim, or to a specified part of the claim on the merits, but the Judge may dispense with the affidavit on terms or otherwise.

Filing and service of affidavit.

(3) The debtor is to file the affidavit and serve upon the claimant a copy thereof within ten days after the personal service, or service under sub-section 2 of section 8, upon him of the affidavit of claim and the notice, or within the time which the Judge by an order dispensing with personal service directed, or within any further time which the Judge may allow: the affidavit is to have endorsed thereon a statement of some place in, or within three miles of, the county town of the county in which the proceedings are being taken, at which service may be made upon the debtor, or the address of some solicitor in the Province who may be served in the debtor's behalf, and in default thereof, service of any notice, paper, or document requiring service, may be made upon the debtor by mailing the same, prepaid and registered, enclosed in an envelope addressed to the debtor at such county town.

Creditor disputing claim.

(4) If the contest is by a creditor, he is for that purpose to file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant; but the Judge may dispense with the affidavit on terms or otherwise.

Time for filing affidavit.

(5) Such affidavit by a creditor may be so filed, and a certificate thereof delivered to the sheriff, at any time before distribution is made. 43 V. c. 10, s. 7 (13-17).

11.—(1) In case of a claim being contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff, unless the Judge otherwise orders, shall proceed and levy as if such contestation had not been made, and the sheriff shall, until the determination of the contestation, retain in the bank the amount which would be apportionable to the claim if valid, and he shall, as soon after the expiry of the said month as practicable, distribute the residue of the money made amongst those entitled.

Distribution by sheriff in case of contestation.

(2) The claimant whose claim is contested may apply to a Judge for an order allowing his claim and determining the amount; and in case he does not make such application within eight days of his receiving notice of the contestation (or within such further time, if any, as the Judge upon the delays being reasonably accounted for may allow), he shall be taken to have abandoned his claim; if the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contest. 43 V. c. 10, s. 7 (18, 19).

Proceedings to enforce claim.

12.—(1) The Judge may determine any questions in dispute in a summary manner, or may direct an action or issue, in any Court or county, for the trial thereof, and may make such order as to the costs of the proceedings as may be just.

Mode of determining questions in dispute.

(2) Where there is a dispute as to material facts, and the sum in controversy appears to be over \$400, exclusive of costs, the Judge shall direct the trial to be in the High Court and may name the county in which the trial is to take place, subject to any order which the High Court or a Judge thereof may see fit to make in that behalf. In case an issue is directed it shall be tried in all respects as if it had been an action in the Court in which it was ordered to be tried. 43 V. c. 10, s. 7 (20, 21).

Where sum in dispute is over \$400.

13. The same proceedings may be had for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings, may also be taken prior to the application to the Judge, and as a foundation therefor. 43 V. c. 10, s. 7 (22).

Examination of parties.

14. A creditor who has recovered a judgment in a Division Court against the debtor may serve upon the sheriff a memorandum of the amount of his judgment and of the costs to which he is entitled, under the hand of the clerk and the seal of the Division Court; and the memorandum so served shall have the same effect for the purposes of this Act as if the creditor had delivered to the sheriff a writ of execution directed to the said sheriff from a County Court. 43 V. c. 10, s. 7 (23).

Proceedings by creditor who has obtained a division court judgment.

15. Where a creditor has taken in one county the prescribed proceedings in respect of his claim, and desires to establish his

Establishing claim in second county.

claim for the purposes of this Act in another county also, he may do so by obtaining from the said County Court clerk another certificate (Form E), and delivering the same to the sheriff of such other county, and the delivery of the certificate to the sheriff shall have the same effect for the purposes of this Act in the county in which the same takes place, from the day of the delivery, as if a new notice and affidavit of claim had been served for the county and other proceedings had in respect thereof under the previous provisions of this Act. 43 V. c. 10, s. 7 (24).

Writs may be sued out into any county.

16. A creditor, entitled to a certificate from the County Court clerk, may sue out a writ of execution into any county in the same manner as on an ordinary judgment. 43 V. c. 10, s. 7 (25).

Decision in one county binding in others.

17. In case a claim is contested in one county, the decision thereon shall, as between the parties to it, determine the amount of the claim for the purposes of this Act in all other counties in which the claim is filed, and the certificate of the clerk of the County Court of the county in which the contest has taken place, of the result thereof, shall be *prima facie* proof of the decision. A certificate shall, upon payment of a fee of fifty cents, be granted to any party to the proceedings who applies therefor. 43 V. c. 10, s. 7 (26).

Clerk of county court to keep book of reference.

18.—(1) The clerk of the County Court shall keep a book in which, before granting a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate under this Act ;

- (a) The name of every claimant, and of every debtor ;
- (b) The date of entry of judgment ;
- (c) The amount of debt, exclusive of costs ;
- (d) The amount of costs ;
- (e) If the proceedings have been set aside, this fact, and shortly the reason therefor ;

Effect of entry.

(2) The entry shall (subject to the provisions of this Act) be an award of judgment for the debt and costs, and shall have the same effect as an entry of judgment for non-appearance to a specially endorsed writ. The clerk shall index the entries in the book alphabetically under the name of every debtor.

Index to book of reference.

Copy of entry evidence.

(3) In case the original papers happen to be lost or destroyed, a copy of the entry in the book shall be evidence of all matters therein set forth. 43 V. c. 10, s. 7 (27-29).

Granting time to debtor.

19.—(1) With respect to claims, the Judge, before or after a certificate is issued by the clerk under this Act, or delivered to the sheriff, may, on the application of the debtor, and notice to a claimant, give to the debtor further time to pay the claim where

the Judge is of opinion that this can be done without injustice to the creditor, or may give to the debtor further time on terms which in the opinion of the Judge may be just. There may be successive orders for this purpose, but no claim shall be delayed by such orders for more than three months in all.

(2) This section is not to apply to creditors who have obtained judgment in the ordinary way; and the orders for time are not to prejudice executions obtained by such creditors on such judgments. 43 V. c. 10, s. 7 (30, 31). Preceding subsection not to apply in certain cases.

20.—(1) In case the debtor, without any sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been served on the debtor, or in case all executions and claims in the sheriff's hands are withdrawn, and any claims served are paid or withdrawn, no notice shall be entered as required by section 4 of this Act, and no further proceedings shall be taken under this Act against the debtor by virtue of the executions having been in the sheriff's hands. Payment by debtor before sale.

(2) Save as aforesaid, after a certificate has been filed with the sheriff, the withdrawal or expiry of the writ, upon which the proceedings are founded, or any stay upon the writ, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ, shall not affect the proceedings to be taken under this Act, and except so far as the action taken in regard to the writ may affect the amount to be levied, the sheriff shall proceed and levy upon the goods or lands of the debtor, or both, as he would have proceeded had the writ or writs remained in his hands in full force to be executed, and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*. 43 V. c. 10, s. 7 (32, 33). Effect of expiry or withdrawal of writs.

21. Where the address of a solicitor is given for service, and is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. 43 V. c. 10, s. 7 (34). Service on Toronto agent.

22. If either before or after the receipt by the sheriff of an execution against the goods or lands of a debtor, a writ of attachment under *The Act respecting Absconding Debtors* is placed in the hands of the sheriff before he distributes the estate of the debtor, the sheriff shall realize the estate of the debtor, as provided by *The Act respecting Absconding Debtors*, but the same when so realized shall be distributed under the provisions of this Act. 49 V. c. 16, s. 36. Proceedings on attachment. Rev. Stat. c. 66.

23. The clerk shall ascertain and state in his said certificate, the amount of the costs to which the claimant is entitled against the debtor. Such costs shall be the following: Costs of claimant.

1. For serving the affidavit of claim, to be allowed upon the scale of the High Court in the case of claims over \$400, and on the County Court scale in the case of claims exceeding \$200 and not exceeding \$400, or on the Division Court scale in the case of claims of \$200 and under;

2. If the claim does not exceed \$200 no greater fees are to be allowed for service of the claim and notice and mileage in respect thereof, than would be allowable to the Division Court bailiff for the service of a Division Court summons and mileage in respect thereof, if the claim had been sued in the proper Division Court;

3. The fees paid to the County Court clerk under this Act are also to be allowed, which fees shall be the same as he is allowed for like proceedings in the County Court, unless the claim appears to be within the jurisdiction of the Division Court, in which case his fees shall be those allowed for like proceedings in the Division Court;

4. Where there is no contest the sum of \$5 for fees of a solicitor (if employed), unless the amount of the claim is within the jurisdiction of the Division Court, in which case the sum of \$2 only is to be allowed;

5. In case of a contest, such additional costs (if any) as the Judge may allow, to be taxed according to the scale of the High Court, County Courts, or Division Courts, according as the amount in dispute is within the jurisdiction of one or other of these Courts;

6. The costs of obtaining an order for substituted service or other similar order and of such service, or the costs of and incidental to service out of the Province, in either case to be taxed by the clerk of the Court, and stated in his certificate aforesaid; if the claim is within the jurisdiction of the Division Court, only such a sum to be allowed for costs as would have been incurred in obtaining a judgment in the Division Court. 43 V. c. 10, s. 8.

Payment to
sheriff of fund
in court.

24. Where there is in any Court a fund belonging to an execution debtor, or to which he is entitled, the same, or a sufficient part thereof to meet the claims in the sheriff's hands, may, on the application of the sheriff or any party interested, be paid over to the sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Act. 49 V. c. 16, s. 37.

Sheriff may
obtain goods
in hands of di-
vision court
bailiff.

25.—(1) If the sheriff does not find sufficient property of a debtor leviable under executions and claims in his hands to pay the same in full, and the sheriff finds goods and chattels in the hands of the bailiff of a Division Court under a writ of execution or attachment against the debtor, the sheriff shall demand and obtain the goods and chattels from the bailiff, who shall forthwith deliver the same to the sheriff, with a copy of every

writ of execution in his hands against the debtor, and a memorandum shewing the amount to be levied thereunder, including the bailiff's fees so far as proceedings have been taken by him, and shewing the date upon which each writ was received by him.

(2) In case the bailiff fails to deliver any of the goods, he shall pay double the value of the property retained, such double value to be recovered by the sheriff from the bailiff with costs of suit, and to be by the sheriff accounted for as part of the estate of the debtor. Penalty.

(3) The sheriff shall distribute the proceeds among the creditors under the provisions of this Act, and the Division Court execution creditors shall be entitled, without further proof, to stand in the same position as execution creditors whose writs are in the sheriff's hands. Distribution. 43 V. c. 10, s. 9.

26. Where the amount levied by the sheriff is not sufficient to pay the execution debts and other claims, with costs, in full, the money shall be applied to the payment ratably of such debts and costs of the creditors, after retaining the sheriff's fees, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made. Mode of apportioning money where amount insufficient to pay claims in full. 43 V. c. 10, s. 10; 49 V. c. 16, s. 35.

27. The sheriff, if directed by an endorsement upon the certificate, shall, in addition to the amounts named in the certificate, levy interest thereon from the date of the certificate, or the date named in that behalf in the certificate, and also the sum of \$1.35 for the disbursements on every renewal of the certificate: and where such renewal is made upon the application of a solicitor, he shall levy the further sum of \$1.25 for the solicitor's costs on the renewal. Levying interest and costs of renewing certificate. 43 V. c. 10, s. 11.

28. Where money is to be distributed by a sheriff under this Act, the sheriff shall not be entitled to poundage as upon separate writs or claims, but only upon the net proceeds of the estate distributable by him, and at the same rate as if the whole amount had been payable upon one writ. Sheriff's poundage. 43 V. c. 10, s. 12.

29. (1) Where money is made upon a writ, the same shall be taken for the purposes of the sheriff's return, and otherwise to be made upon all the writs or certificates entitled to the benefit thereof, and the sheriff shall, upon payment being made to the person entitled upon such writ or certificate, endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party issuing the writ, or by direction of the Court out of which the same issues, or of a Judge having the authority of a Judge of such Court, return the Money made on any writ to be considered as made on all writs entitled to benefit thereof. Return.

writ until the same has been fully satisfied, or unless the same has expired by effluxion of time, in which case the sheriff shall make a formal return of the amount made thereon.

Time certificate to remain in force.

(2) A certificate issued under this Act shall remain in force for one year from the date thereof and no longer, unless renewed, but such certificate may from time to time be renewed in the same manner as a writ of execution, but notwithstanding the expiry of a writ or certificate prior to the termination of the month during which a notice of money having been made is under this Act required to be posted, the said writ and certificate shall, as to any money levied during such month, be deemed to be in full force and effect.

Compelling payment by sheriff.

(3) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to an execution or other claim as can now be had to compel the return by the sheriff of a writ of execution. 43 V. c. 10, s. 13.

Statement to be kept in sheriff's office pending distribution.

30. The sheriff shall, pending the distribution of moneys levied, keep, in the said book mentioned in section 4, in his office, a statement according to Form F in the schedule hereto, shewing, in respect of any debtor of whose property money has been levied, the following particulars:—

- (a) The amounts levied and the dates of levy;
- (b) Each execution, certificate, or order in his hands at the time of entering the notice Form A required by section 4, or subsequently received during the month, the amount thereof for debt and costs, and the date of receipt, and such statement shall be amended from time to time as an additional amount is levied, or a new execution, certificate or order is received. 43 V. c. 10, s. 14.

Sheriff to give information as to estate of debtor.

31. The sheriff shall at all times without fee answer any reasonable question which he may be asked orally in respect to the estate of the debtor by a creditor, or any one acting upon behalf of a creditor, and shall facilitate the obtaining by him of full information as to the value of the estate, and the probable dividend to be realized therefrom in his county, or any other information in connection with the estate which the creditor may reasonably desire to obtain. 43 V. c. 10, s. 15.

Distribution by sheriff where amount levied insufficient to meet claims.

32. Where the money levied is insufficient to pay all claims in full, and the time has come for distributing the money levied, the sheriff may forthwith distribute the same as directed by this Act; or he may first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution of the amount levied, with the amount due to each for principal, interest and costs; the list to be arranged so as, among other things, to shew the amount going to each

creditor under the provisions of this Act, and the total amount to be distributed; and the sheriff may deliver, or send (prepaid and registered) by post to each creditor or his solicitor, a copy of the list, with the several particulars aforesaid; and in such case the further proceedings may be as follows:

1. If within eight days after all the said copies have been delivered or posted, or within any further time the Judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list:

2. In case an objection is made as provided by this Act, the sheriff shall forthwith distribute such an amount of the money made, and to such persons *pari passu*, as may not interfere with the effect of the objection in case the same should be allowed;

3. The sheriff may disregard objections which are frivolous, or manifestly insufficient to interfere with the distribution proposed, and distribute as if such objections had not been made;

4. Any person prejudiced by the proposed scheme of distribution, may contest the same in manner following, viz., by giving a notice in writing to the sheriff, stating therein distinctly his objection to the scheme (or any part thereof) and the grounds of objection, and by, at the same time, delivering to the sheriff an affidavit of previous service of a copy of the notice on the debtor and the creditors interested in resisting the objection, unless the Judge shall by order have dispensed with service, or on affidavit of service as the Judge shall have sanctioned;

5. The contestant shall, within eight days thereafter, apply (upon notice) to the Judge for an order adjudicating upon the matter in dispute; and otherwise the contestation shall be taken to be abandoned. The notice may be in the Form G in the schedule hereto;

6. The Judge may determine any questions in dispute in a summary manner, or may direct an issue or action for the trial thereof, either by a jury or otherwise and in any Court or county, and may make such order as to the costs of the proceedings as may be just. This sub-section is subject to the same provisions as are set forth in sub-section 2 of section 11 of this Act;

7. In the event of a claimant under a contestation being held not entitled, or only entitled to part of his claim, the money retained pending the contestation, or the portion as to which the claimant shall have failed, shall be distributed among the execution creditors and other creditors who would have been entitled thereto, as the same would have been distributed had the claim in respect thereof not been made. 43 V. c. 10, s. 16.

Directions by Judge to avoid unnecessary parties and trials.

33. In case several creditors are interested in a contestation, either for or against the same, the Judge shall have authority to give, and shall give, such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as may be just, and he shall direct by whom and in what proportions any costs incurred in the contestation, or in any proceedings thereunder, shall be paid; and whether any and what costs shall be paid out of the money levied. 43 V. c. 10, s. 17.

Direction by Judge to sheriff where claims disputed.

34.—(1) The Judge may, if he sees fit, direct the sheriff to levy for an amount sufficient to cover a claim which is in dispute, or part thereof, or in case it appears to the Judge that it is improbable that the defendant has other sufficient property, may order the sheriff to retain in his hands during the contestation the share which, if the claim is sustained, will be apportionable to it, or may make an order combining the orders above authorized, or such similar order as may be just.

(2) An order to levy under this section shall clothe the sheriff with the same authority as he would possess under a writ of execution, duly issued against the debtor, directing the sheriff to levy the like amount out of the goods and lands of the debtor. 43 V. c. 10, s. 18.

Decisions to be binding on all creditors.

35. The decision of a county court Judge or the Court of Appeal under this Act, shall bind all creditors, unless it appears that the decision was obtained by fraud or collusion by the parties to the contestation. 43 V. c. 10, s. 19.

Sheriff to deposit moneys in bank.

36. In case a sheriff has money in his hands, which, by reason of the provisions of this Act, or otherwise, he cannot immediately pay over to the execution creditors, or other claimants under this Act, he shall deposit the money, whenever the same amounts to \$100, in some incorporated bank designated for this purpose from time to time by order of the Lieutenant-Governor in Council, or where there is no such bank, then in some incorporated bank in which public money of the Province is then being deposited: the deposit to be made in the name of the sheriff, but to a special account in his name as "Trustee for the creditors of _____" (the debtor). 43. V. c. 10, s. 20.

Attaching orders by sheriff or creditors.

37.—(1) Where there are in the sheriff's hands several executions and claims, and there are not, or do not appear to be, sufficient lands or goods, as the case may be, to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of such sheriff, whether the debt is owing by such person alone or jointly with another person resident or not resident in such county, and to procure the attachment the sheriff may take the same proceedings as a creditor: and in such case a writ of execution, or other writ in the course of

the proceedings, may be directed to him in the same manner as if the attachment were by a creditor; and the proceeds of the debts attached shall be distributed in the same manner as if he had realized the same under execution.

(2) In case the sheriff does not take such proceedings, any person entitled to distribution may take the same for the benefit of himself and all other persons entitled to distribution as aforesaid, and the person owing the attached debt shall pay the same to the sheriff.

(3) Any judgment creditor who attaches a debt shall be deemed to do so for the benefit of himself and all creditors entitled under this Act; payment of such debt shall be made to the sheriff, who in making distribution will apportion to such judgment creditor a share *pro rata*, according to the amount owing upon his judgment, of the whole amount to be distributed under the provisions of this Act, but such share shall not exceed the amount recovered by the garnishee proceedings unless the judgment creditor has placed a writ in the sheriff's hands.

(4) Money garnished and paid into the sheriff's hands shall be deemed to be money levied under execution, within the meaning of this Act, except that, unless the garnishee proceedings were taken by him, the sheriff shall only be entitled to charge poundage on such moneys at the rate of one and a quarter per cent. 43 V. c. 10, s. 21.

(5) The provisions of sub-sections 3 and 4 of this section shall also apply, as nearly as may be, to any person who attaches a debt in the Division Court before judgment, and to the money so attached.

(6) In case a garnishee, under an order of the Court, pays to the attaching creditor, or in case a garnishee, without notice that the sheriff is entitled, pays the amount of his debt into Court and the same is paid out to the said creditor, the sheriff may recover from him the amount so received. 48 V. c. 15, s. 1.

38. If any party to any contestation, matter or thing upon Appeal, which a Judge has made or rendered any final order or judgment, is dissatisfied with such order or judgment, and the same is in respect to a question involving a sum greater than \$100, he may appeal therefrom to the Court of Appeal, subject to the like practice as near as may be, including the giving of security for costs, as may be from time to time in force in respect of appeals from the County Court, unless and until the Judges of the Court of Appeal shall enact rules establishing a different practice for such proceedings under this Act; and the said Judges, or a majority of them, are hereby authorized to frame and enact rules to govern such practice. 43 V. s. 10, s. 22.

39. The provisions of section 107 of *The Judicature Act*, Rev. Stat. c. 14, shall apply to this Act. 43 V. c. 10, s. 23. s. 107, to apply.

Powers of
Judge.

40. A Judge for the purpose of giving effect to this Act and carrying out its provisions shall have all the powers which a County Court or a Judge thereof has by law for other purposes; and any proceedings wrongly taken under this Act may be set aside by the Judge, with or without costs as he may think fit. 43 V. c. 10, s. 25.

Defects of
form.

41. No proceeding under this Act shall be void for any defect of form; and the rules, for amending or otherwise curing irregularities or defects, which may from time to time be in force in the County Courts shall apply to this Act. 43 V. c. 10, s. 26.

Scale of fees.

42. Besides the fees otherwise authorized to be paid to the clerk of the County Court for his own use, the following fees shall be levied on the following proceedings under this Act upon all claims filed, where the amount of the claim exceeds \$200, and the same shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*, and shall form part of the Consolidated Revenue Fund of the Province:—

Rev. Stat.
c. 22.

	\$	cts.
On an affidavit of claim, where the amount claimed exceeds \$200 but does not exceed \$400.....	0	75
On every such affidavit where the claim exceeds \$400..	1	50
On every certificate of clerk given under sec. 9, where the claim exceeds \$200, but does not exceed \$400..	0	75
On every such certificate where the claim exceeds \$400.	1	50
On every order made by the Judge allowing or disallowing a claim, where the claim exceeds \$200, but does not exceed \$400	0	50
On every such order where the claim exceeds \$400...	1	00

Where the claim is contested, on the proceedings after the order, the same fees as are now payable on like proceedings in the High Court. 43 V. c. 10, s. 27.

Act not to in-
terfere with
Insolvency
Laws.

43. This Act is not intended to interfere with the Insolvency Laws which may from time to time be in force in this Province, but this Act is intended to be subject to such laws, and subject as aforesaid to apply to all debtors whether solvent or not. 43 V. c. 10, s. 28.

SCHEDULE.

FORM A.

(Section 4 sub.-s. 2.)

SHERIFF'S NOTICE.

Notice is hereby given that I have, by virtue of certain executions delivered to me against the goods and chattels (or lands) of C.D., levied and made out of the property of the said C. D., the sum of \$

And notice is further given that this notice is first posted in my office on the first day of May, 18 , and that distribution of the said money will be made amongst the creditors of the said C. D. entitled to share therein, at the expiration of one month from the said first day of May.

F. G.,
Sheriff.

Dated 1st May, 18 .

43 V. c. 10, Sched. Form A.

FORM B.

(Section 7, sub-s. 1.)

AFFIDAVIT OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of [state
county or united counties in which it is intended proceedings shall be
taken].

A. B.....Claimant,

vs.

C. D.....Debtor.

I, A. B., of in the county of
Merchant (or as the case may be) make oath and say :—

1. I am the above named claimant (or the duly authorized agent of the claimant in this behalf), and have a personal knowledge of the matter hereinafter deposed to).

2. The above named debtor is justly and truly indebted to me (or to the above named claimant) in the sum of \$ for [here state shortly the nature and particulars of the claim as they are required to be stated upon a specially endorsed writ].

Sworn before me at
this day of
A. D. 18

}

43 V. c. 10, Sched. Form B.

FORM C.

(Section 7, sub-s. 2.)

NOTICE TO BE SERVED WITH CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

vs.

C. D. Debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of (or of the united counties of) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county (or united counties) a writ of execution against your goods and chattels (or lands), and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of *The Creditors' Relief Act*.

And further, take notice that in case you desire to contest the said claim, or any part thereof, you must, within ten days after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim, otherwise such claim will be treated as admitted by you, or may be so treated as to the part not contested.

You are further hereby notified that unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county (or united counties) at which service may be made upon you, or the address of some solicitor in the Province of Ontario who may be served on your behalf, service may be made upon you of any notice, paper, or document requiring service, by mailing the same enclosed in an envelope addressed to you at said county town.

NOTE.—In case the above notice is endorsed upon the copy of the affidavit served, the heading of the notice may be omitted. Where further time is given by a judge, the notice should be varied accordingly.

43 V. c. 10, Sched. Form C.

FORM D.

(Section 8, sub-s. 4.)

AFFIDAVIT OF SERVICE OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

vs.

C. D. Debtor..

I, G. H., of
oath and say :—

in the county of

make

1. That I did, on the _____ day of _____ personally serve
C. D., the above named debtor, with an original affidavit identical with
 the annexed affidavit, and that there was at the time the said affidavit was
 so served, attached to (*or* endorsed upon) the said affidavit so served a true
 copy of the notice addressed to the debtor, now attached to (*or* endorsed
 upon) the said annexed affidavit.

Sworn before me at _____
 this _____ day of _____
 A. D. 18 _____

43 V. c. 10, Sched. Form D.

FORM E.

(Section 9, sub-s. 1 and Section 15.)

CERTIFICATE OF PROOF OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of _____

A. B. Claimant,

vs.

C. D. Debtor.

I, _____ clerk of the County Court of the
 County of _____, do hereby certify that the above
 named claimant did on the _____ day of _____
 file with me a claim against the above named debtor, for the sum of _____
 together with an affidavit of personal service thereof (*or*
as the case may require) and of the notice required by *The Creditors' Relief*
Act, upon the said debtor, and that it thereby appears that such service
 was made upon the said debtor on the _____
 day of _____

And I further certify that the debtor has not contested the said claim (*or*,
 has only contested the sum of _____ portion of the said claim,
or as the case may be), and that the claimant is entitled to the sum of _____
 against the said debtor
 and the further sum of _____ for costs.

43 V. c. 10, Sched. Form E.

FORM F.

(Section 30.)

SHERIFF'S STATEMENT OF EXECUTIONS ON HAND AGAINST C. D.

CAUSE.	Proceeding.	Claim without Costs.	Costs.	Date of receipt by Sheriff.	Amount Levied.	Date of Levy.
		£	£		£	
A. B. v. C. D.	<i>Fi. fa.</i> goods..	504	30	18th Feb., 1886 ..	500	1st May, 1886.
F. G. v. C. D. & E. G.	<i>Fi. fa.</i> lands..	400	20	1st March, 1886..	300	3rd May, 1886. Nothing made against E. G.
K. L. v. C. D.	Garnishee order	500	30	300	10th May, 1886.
M. N. v. C. D.	Creditor's Certificate	400	5	15th May, 1886.		

43 V. c. 10, Sched. Form F.

FORM G.

(Section 32, sub-section 5.)

CONTESTATION OF SCHEME OF DISTRIBUTION.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

vs.

C. D. Debtor.

To F. G. and M. N., claimants of moneys levied by the Sheriff of the
County of out of the estate of C. D.

Take notice that I will on the day of
next, apply to the Judge of the County Court of
the County of at his chambers at the court house
in the town of for an order adjudicating upon the
right of you the said to rank upon the said
moneys for any amount whatever (*or as the case may be*); and further take
notice that I will, upon the said application, read the affidavits of E. F.
and X. Y., filed with the clerk of the said Court.

43 V. c. 10, Sched. Form G.

CHAPTER 66.

An Act respecting Absconding Debtors.

ABSCONDING DEBTOR DEFINED, s. 1.	DIVISION COURT ATTACHMENT, SUPERSEDED, s. 16.
PROCEDURE TO OBTAIN WRIT OF ATTACHMENT, ss. 2, 3.	SHERIFF'S COSTS, ss. 17, 18.
WRIT OF ATTACHMENT AND SUMMONS, ss. 4-7.	COSTS WHERE ATTACHMENT NOT WARRANTED, s. 19.
PROCEDURE AFTER SERVICE OF WRIT : Order to proceed, s. 8.	SALE OF CHATTELS, s. 20.
Proof of plaintiff's claim, s. 9.	ATTACHMENT OF DEBTS DUE TO THE ABSCONDING DEBTOR, ss. 21, 22.
BAIL AND RESTORATION OF PROPERTY, ss. 10-12.	ACTIONS BY SHERIFF FOR OUTSTANDING DEBTS, ss. 23-25.
WHAT PROPERTY MAY BE ATTACHED, s. 13.	RATABLE DISTRIBUTION AMONG CLAIMANTS, ss. 26, 27.
PERISHABLE PROPERTY, ss. 14, 15.	SURPLUS TO BE RESTORED TO DEBTOR, s. 28.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. If a person resident in Ontario indebted to any other person, departs from Ontario with intent to defraud his creditors, and at the time of his so departing is possessed to his own use and benefit, of any real or personal property, credits or effects therein not exempt by law from seizure, he shall be deemed an absconding debtor, and his property, credits or effects aforesaid, may be seized and taken for the satisfying of his debts by a writ of attachment. R. S. O. 1877, c. 68, s. 1.

Who to be
regarded as an
absconding
debtor.

PROCEDURE TO OBTAIN WRIT OF ATTACHMENT.

In the High Court.

2. Upon affidavit made by a plaintiff, his servant or agent that a person so departing is indebted to the plaintiff in a sum exceeding \$100, and stating the cause of action, and that the deponent has good reason to believe and does verily believe that the person has departed from Ontario and has gone to (stating some place to which the absconding debtor is believed to have fled, or that the deponent is unable to obtain any information as to what place he has fled to), with intent to defraud the plaintiff of his just dues, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed of real or personal property, credits or effects, not exempt by law from seizure, to his own use and

Proceedings
upon affidavit
that the de-
fendant has
absconded.
etc.

Further
affidavit.

Writ of attach-
ment to issue.

benefit in Ontario, and upon the further affidavit of two other credible persons, that they are well acquainted with the debtor mentioned in the first named affidavit, and have good reason to believe and do believe that the debtor has departed from Ontario with intent to defraud the plaintiff, or to avoid being arrested or served with process, the High Court, or a Judge thereof, or the Judge of a County Court, may order a writ of attachment to issue from the High Court, and may in the order appoint the time for the defendant's putting in special bail, which time shall be regulated by the distance from Ontario of the place to which the absconding debtor is supposed to have fled, having due regard to the means of and necessary time for postal or other communication. R. S. O. 1877, c. 68, s. 2.

In County Courts.

Proceedings in
cases within
County Court
jurisdiction.

3. In case the sum claimed is within the jurisdiction of the County Courts, such Court or the Judge or acting Judge thereof, may in like manner order a writ of attachment to issue from such Court, and the proceedings thereon shall be the same as in this Act provided. R. S. O. 1877, c. 68, s. 3.

WRIT OF ATTACHMENT AND SUMMONS.

Contents of
writ.

4. The writ of attachment shall also contain a summons to the absconding debtor, and shall be in the form given in the Schedule to this Act. R. S. O. 1877, c. 68, s. 4.

To be dated on
day of issue
and to be in
force six
months.

5. The writ shall be dated on the day on which it is issued, and shall be in force for six months from its date, and may be renewed for the purpose of effecting service on the defendant, in like manner as a writ of summons. R. S. O. 1877, c. 68, s. 5.

Writ of
attachment to
issue in dupli-
cate.

6. Every writ of attachment shall issue in duplicate, and shall be so marked by the officer issuing the same (the costs of suing out the same being allowed only as if a single writ issued) and one writ shall be delivered to the sheriff to whom the same is directed, and the other shall be used for the purpose of effecting service on the defendant. R. S. O. 1877, c. 68, s. 6.

Plaintiff may
obtain concur-
rent writs to
other sheriffs.

7. The plaintiff may, at any time within six months from the date of the original writ of attachment, without further order from the Court or a Judge, issue from the office whence the original writ issued, one or more concurrent writ or writs of attachment, to bear teste on the same day as the original writ, and to be marked by the officer issuing the same with the word "*Concurrent*" in the margin, which concurrent writ or writs of attachment may be directed to any sheriff other than the sheriff to whom the original writ was issued, and need not be sued out in duplicate or be served on the defendant, but

shall operate merely for the attachment of his real or personal property, credits, or effects in aid of the original writ. R. S. O. 1877, c. 68, s. 7.

PROCEDURE AFTER SERVICE OF WRIT.

8. In case it is shewn by affidavit to the Court or a Judge that a copy of the writ was personally served on the defendant, or that reasonable efforts were made to effect service, and that the writ came to his knowledge, or that the defendant has absconded in such a manner that after diligent inquiry no information can be obtained as to the place he has fled to, the Court or Judge, if the defendant has not put in special bail may either require some further attempt to effect service or may appoint some act to be done which shall be deemed good service, and thereupon (or on the first application, if the Court or Judge thinks fit), the Court or Judge may authorize the plaintiff to proceed in the action in such manner and subject to such conditions as the Court or Judge may direct or impose. R. S. O. 1877, c. 68, s. 8.

Further proceedings after service, etc.

9. Before the plaintiff obtains judgment he shall prove the amount of the debt or damages claimed by him in the action, either before a jury on an assessment, or by reference as provided in section 1 of *The Act Respecting Arbitration and References*, according to the nature of the case, and no execution shall issue until the plaintiff, his solicitor or agent, has made and filed an affidavit of the sum justly due to the plaintiff by the absconding debtor, after giving him credit for all payments and claims which might be set off or lawfully claimed by the debtor at the time of making the affidavit, and the execution shall be endorsed to levy the sum so sworn to with the taxed costs, or the amount of the judgment including the costs, whichever is the smaller sum of the two. R. S. O. 1877, c. 68, s. 9.

Plaintiff must prove his claim, etc.

Rev. Stat. c. 53.

BAIL.

10. The Court or a Judge at any time before or after final judgment, but before execution executed, upon an application supported by affidavits satisfactorily accounting for the defendant's delay and default and disclosing a good defence on the merits, may, having regard to the time of the application and other circumstances, let in the defendant to put in special bail and to defend the action. R. S. O. 1877, c. 68, s. 10.

Court may allow defendant to put in special bail.

11. The special bail (whether put in within the time limited by the writ or within such time as the Court or a Judge directs), shall be put in and perfected in like manner as if the defendant had been arrested on a writ of *capias* for the amount sworn to on obtaining the attachment; and after being so put in and perfected, the defendant shall be let in to defend, and the action shall proceed as in ordinary cases. R. S. O. 1877, c. 68, s. 11.

Defendant may be let in to defend.

Defendant's property to be restored on bail being put in.

12. Upon the defendant so putting in and perfecting special bail, all his property, credits and effects attached in that action (excepting any which may have been disposed of as perishable, and then the net proceeds of the goods so disposed of), shall be restored and paid to him unless there be some other lawful ground for the Sheriff to withhold or detain the same. R. S. O. 1877, c. 68, s. 12.

WHAT PROPERTY MAY BE ATTACHED.—INVENTORY, ETC.

Sheriff to attach all the property and credits of defendant.

13. All the property, credits and effects of an absconding debtor, including all rights and shares in any association or corporation, may be attached in the same manner as they might be seized in execution; and the sheriff to whom a writ of attachment is directed shall forthwith take into his charge all such property and effects according to the exigency of the writ, and shall be allowed all necessary disbursements for keeping the same, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid he shall make a just and true inventory of all the personal property, credits and effects, evidences of title or debt, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and the said freeholders, together with the writ of attachment. R. S. O. 1877, c. 68, s. 13.

Inventory to be made.

PERISHABLE PROPERTY.

Sale of perishable goods on plaintiff giving security.

14. In case horses, cattle, sheep, pigs, or perishable goods or chattels, or such as from their nature (as timber or staves) cannot be safely kept or conveniently taken care of, are taken under a writ of attachment, the sheriff who attached the same shall have them appraised and valued, on oath, by two competent persons; and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders (whose sufficiency shall be approved of by the sheriff), in double the amount of the appraised value of the articles, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such enumerated articles at auction, to the highest bidder, giving not less than six days' notice of the sale, unless any of the articles are of such a nature as not to allow of that delay, in which case the sheriff may sell such articles last mentioned forthwith; and the sheriff shall hold the proceeds of the sale for the same purposes as he would hold property seized under the attachment. R. S. O. 1877, c. 68, s. 14.

Sheriff to hold proceeds.

15. If the plaintiff, after notice to himself or his solicitor of the seizure of any articles enumerated in the last preceding section, neglects or refuses to deposit the bond, or only offers a bond with sureties insufficient in the judgment of the sheriff, then, after the lapse of four days next after the notice, the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized, and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. R. S. O. 1877, c. 68, s. 15.

The goods to be restored if plaintiff fails to give sufficient security.

WHEN DIVISION COURT ATTACHMENT SUPERSEDED.

16. If the sheriff to whom a writ of attachment is delivered for execution, finds any property or effects, or the proceeds of any property or effects which have been sold as perishable, belonging to the absconding debtor named in the writ of attachment, in the custody of a constable or of a bailiff or clerk of a Division Court by virtue of a warrant of attachment issued or money paid into Court under a garnishee summons under *The Division Courts Act*, the sheriff shall demand and take from the constable, bailiff or clerk, the property or effects, or the proceeds of any part thereof and the constable, bailiff or clerk, on demand by the sheriff and notice of the writ of attachment, shall forthwith deliver all the property, effects and proceeds aforesaid to the sheriff, upon penalty of forfeiting double the value of the amount thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property and effects of the absconding debtor; but the creditor who has duly sued out the warrant of attachment may proceed to judgment against the absconding debtor in the Division Court, and on obtaining judgment, and serving a memorandum of the amount thereof, and of the costs to be certified under the hand of the clerk of the Division Court, the creditor shall be entitled to satisfaction in like manner as, and in ratable proportion with, the other creditors of the absconding debtor who obtain judgment as hereinafter mentioned. R. S. O. 1877, c. 68, s. 16; 48 V. c. 15, s. 2.

Proceeding if Sheriff finds property in the hands of a Bailiff or Clerk of a Division Court.

Rev. Stat. c. 51.

Creditor in Division Court may proceed to judgment.

SHERIFF'S COSTS.

17. The costs of the sheriff for seizing and taking charge of property, credits and effects under a writ of attachment, including the sums paid to persons for assisting in taking an inventory, and for appraising (which shall be paid for at the rate of \$1 for each day actually required for and occupied in making the inventory or appraisal) shall be paid in the first instance by the plaintiff, and may, after having been taxed, be recovered by the sheriff by action in any Court having jurisdiction, and such costs shall be taxed to the party who pays the same as part of the disbursements in the action against the absconding debtor, and be so recovered from him. R. S. O. 1877, c. 68, s. 17.

Sheriff's costs and how paid.

Cost of new inventory not allowed on receipt of new writ.

18. The sheriff having made an inventory and appraisement on the first writ of attachment against any absconding debtor, shall not be required to make, nor shall he be allowed to charge for, a new inventory and appraisement upon a subsequent writ of attachment coming into his hands. R. S. O. 1877, c. 68, s. 18.

COSTS IN CASE OF ATTACHMENT NOT WARRANTED.

When defendant to recover costs of defence.

19. If, before execution issues, it appears to the Court upon motion and upon hearing the parties by affidavit, that the defendant was not an absconding debtor within the meaning of this Act, at the time of the issue of the writ of attachment against him, he shall recover his costs of defence, and the plaintiff shall not have execution for the amount of the verdict rendered or ascertained upon reference or otherwise recovered in the action, unless the same exceeds, and then for such sum only as the same exceeds the amount of the taxed costs of the defendant, and in case the sum so recovered is less than the taxed costs of the defendant, he shall be entitled, after deducting the amount of the sum recovered from the amount of the taxed costs, to take out execution for the balance. R. S. O., 1877, c. 68, s. 19.

SALE OF CHATTELS.

Sale of goods under writ of attachment.

20.—(1) The Court or a Judge may, at any time after a writ of attachment has been in the hands of a sheriff, or other officer, for one month, direct him to sell any goods or chattels, except chattels real which have been attached.

(2) An order for sale may be made upon the application of a creditor having a writ of attachment, or a writ of execution, in the hands of the sheriff, and shall be made if the Court or Judge is satisfied that the alleged debtor has in fact absconded indebted to the applicant, and that the property attached is not sufficient to pay in full the claims of the persons who have sued out writs of attachment, or execution, but this provision shall not be construed to restrict the authority of the Court or Judge to make an order in other cases; and in all cases terms may be imposed.

(3) The costs of the first writ of attachment shall have priority over all execution debts and other costs. 46 V. c. 6, s. 4. (1-3).

[As to the application of sections 10 to 13 of "The Execution Act," see section 14 of that Act, Cap. 64.]

ATTACHMENT OF DEBTS DUE TO ABSCONDING DEBTOR.

Liability of persons paying debts to absconding debtor after notice of attachment.

21. In case notice in writing of the writ of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff in the writ, upon a person owing a debt or demand to, or who has the custody or possession of property or effects of, an absconding debtor, and in case such person after

such notice pays the debt or demand or delivers the property or effects to the absconding debtor, or to any one for him, he shall be deemed to have done so fraudulently, and if the plaintiff recovers judgment against the absconding debtor, and the property and effects seized by the sheriff are insufficient to satisfy the judgment, such person shall be liable for the amount of the debt or demand, and for the property and effects or the value thereof. R. S. O. 1877, c. 68, s. 22.

22. If after notice as aforesaid a person indebted to the absconding debtor, or having custody of his property as aforesaid, is sued for the debt, demand or property by the absconding debtor, or by the person to whom the absconding debtor has assigned the debt, demand or property since the date of the writ of attachment, he may, on affidavit, apply to the Court or a Judge, to stay proceedings in the action against himself, until it is known whether the property and effects so seized by the sheriff, are sufficient to discharge the sum or sums recovered against the absconding debtor, and the Court or Judge may direct an issue to try any disputed question of fact or make such other order as is proper. R. S. O. 1877, c. 68, s. 23.

Debtor if sued after service of notice of attachment may obtain stay of proceedings.

WHEN SHERIFF MAY SUE FOR OUTSTANDING DEBTS.

23. If the real and personal property, credits and effects of an absconding debtor prove insufficient to satisfy the executions obtained against him and claims certified under *The Creditors' Relief Act*, the sheriff may, by order of the Court or a Judge, to be granted on the application of any plaintiff or claimant sue for and recover from any person indebted to the absconding debtor, the debt, claim, property or right of action attachable under this Act, and owing to or recoverable by the absconding debtor, with costs of suit, in which action the defendant shall be allowed to set up any defence which would have availed him against the absconding debtor at the date of the writ of attachment, and a recovery in the action by the sheriff shall operate as a discharge as against the absconding debtor; and the sheriff shall hold and apply the moneys recovered by him as part of the assets of the absconding debtor. R. S. O. 1877, c. 68, s. 24.

Debtor of defendant may be sued if defendant's property is not sufficient to satisfy claims.

Rev. Stat. c. 65.

24. The statement of claim in the action by the sheriff shall contain an introductory averment to the effect following:

The plaintiff is Sheriff of (etc.) and sues under the provisions of *The Act respecting Absconding Debtors*, in order to recover from C. D., debtor to E. F., an absconding debtor, the debt due (or other claim, according to the facts) by the said C. D., to the said E. F., etc.

Averment to be inserted in Sheriff's statement of claim.

R. S. O. 1877, c. 68, s. 25.

25. The sheriff shall not be bound to sue as aforesaid until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be other of the plaintiffs or

Sheriff not bound to sue until creditor gives bond of indemnity.

claimants, payable to the sheriff by his name of office in double the amount or value of the debt or property sued for, conditioned to indemnify him from all costs, losses and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. R. S. O. 1877, c. 68, s. 26.

DISTRIBUTION OF PROCEEDS.

Who entitled to share if property proves insufficient to pay all.

Rev. Stat. cc. 65 and 51.

26. In case the property and effects of the absconding debtor are insufficient to satisfy the executions and other claims certified, none shall be allowed to share, unless their proceedings under this Act or *The Creditors' Relief Act*, or the provisions of *The Division Courts Act* respecting absconding debtors were commenced within six months from the date of the first writ of attachment. R. S. O. 1877, c. 68, s. 30.

Delay of distribution until claims established.

27. The Court or a Judge may delay the distribution, in order to give reasonable time for the obtaining of judgment or allowance of claim by persons who have commenced proceedings in due time against the absconding debtor. R. S. O. 1877, c. 68, s. 28.

SURPLUS TO BE RESTORED.

When all seizing creditors are satisfied, remaining property to be delivered up.

28. In case at any time the sheriff has levied for distribution sufficient to pay all debts and claims for which proceedings had then been commenced, including costs, and one month has elapsed without proceedings being taken in respect of any other debt or claim, or in case after a period of one month from a distribution under the order of the Court or a Judge, whichever last happens, and after satisfying the several plaintiffs and claimants entitled, there is no other writ of attachment or execution against the same property and effects in the hands of the sheriff, or claim certified against the debtor, then, all the property and effects of the absconding debtor, or unappropriated money the proceeds of any part of such property and effects, remaining in the hands of the Sheriff, together with all books of account, evidences of title or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor or to the person or persons in whose custody the same were found, or to the authorized agent of the absconding debtor, and thereupon the responsibility of the sheriff in respect thereto shall determine. R. S. O. 1877, c. 68, s. 31.

SCHEDULE.

(Section 4.)

FORM OF WRIT OF ATTACHMENT AND SUMMONS,

Ontario.	}	Victoria, &c.
County of		To the Sheriff of, &c.

[Seal.]

We command you, that you attach, seize and safely keep all the real and personal property, credits and effects, together with all evidences of title or debts, books of account, vouchers and papers belonging thereto, of *C. D.*, to secure and satisfy *A. B.* a certain debt (*or demand*) of \$ (*the sum sworn to*), with his costs of suit, and to satisfy the debt and demand of such other creditors of the said *C. D.* as shall duly place their Writs of Attachment in your hands or otherwise lawfully notify you of their claim, and duly prosecute the same. And We also command the said *C. D.*, that within (*the time named in the Judge's order or rule of Court*) days after the service of this Writ on him, inclusive of the day of such service, he do cause special bail to be entered for him in Our High Court (*or County Court of* ,) in an action to recover \$ (*the sum sworn to*) at the suit of the said *A. B.*: And We require the said *C. D.* to take notice that his real and personal property, credits and effects in Ontario have been attached at the suit of the said *A. B.*, and that in default of his putting in special bail as aforesaid, the said *A. B.* may, by leave of the Court or a Judge, proceed therein to judgment and execution, and may sell the property so attached: And We command you, the said Sheriff, that as soon as you have executed this Writ, you return the same with the inventory and appraisement of what you have attached thereunder.

Witness, &c.

In the margin.

Issued from the office of the Clerk of the Process (*or Clerk of Records and Writs, or Deputy Clerk of the Crown and Pleas or Clerk of the County Court in the County of* , *or as the case may be.*)

(Signed)

A. C., Clerk of the Process (*or as the case may be.*)*Memorandum to be subscribed on the Writ.*

N.B.—This Writ is to be served within six months from the date thereof, or if renewed, then from the date of such renewal, including the day of such date, and not afterwards.

Endorsement to be made on the Writ before service thereof.

This writ may be served out of Ontario, and was issued by *E.F.*,
of , Solicitor, &c. (*as on a Writ of Summons.*)

R. S. O. 1877, c. 68, Sched

CHAPTER 67.

An Act respecting Arrest and Imprisonment for Debt.

ARREST, WHEN MAY BE HAD, ss. 1-8.	GAOL LIMITS, s. 13.
WRITS OF <i>Capias</i> , s. 1.	SECURITY FROM DEBTORS IN CIVIL CUSTODY, ss. 14-26.
WRITS OF <i>Ca Sa.</i> , s. 9.	DISCHARGE FROM CUSTODY, s. 27.
ARREST FOR NON-PAYMENT OF MONEY, s. 10.	PROVISION IN CASE OF SEPARATION OF UNITED COUNTIES, ss. 28, 29.
PERSON HAVING CARRIAGE OF JUDGMENT TO BE DEEMED PLAINTIFF, s. 11.	LIABILITY OF SHERIFF FOR ESCAPE, s. 30.
CUSTODY OF PERSONS ARRESTED, s. 12.	DEBTORS IN CRIMINAL CUSTODY, s. 31.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

ARREST.

Defendant may be held to bail on affidavit of certain facts and order of a judge

1. In case a party or plaintiff being a creditor of, or having a cause of action against a person liable to arrest, by affidavit of himself or some other person shews to the satisfaction of a Judge of the High Court, or to the Judge or acting Judge of a County Court, that such party or plaintiff has cause of action against such person to the amount of \$100 or upwards or that he has sustained damage to that amount, and also by affidavit shews such facts and circumstances as satisfy the Judge, that there is good and probable cause for believing that such person, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the said party or plaintiff in particular, the Judge may order that the person against whom the application is made, shall be held to bail for such sum as the Judge thinks fit, and thereupon the party or plaintiff, within the time expressed in the order, but not afterwards, may sue out a writ of *capias* and one or more concurrent writs of *capias* in the High Court, or County Court, against the person ordered to be held to bail, and the Judge or the acting Judge of the County Court, may grant orders to hold to bail where process is intended to be sued out of or an action has been commenced in the High Court, as well as in his own Court. R. S. O. 1877, c. 67, s. 5.

Capias may issue on such order within a limited time.

Affidavit need not be at first entitled in any Court.

2. If the affidavit at the time of the making thereof is not entitled in any Court, the title of the Court may be added at the time of suing out the writ. R. S. O. 1877, c. 67, s. 6.

3. A party or plaintiff formerly entitled to obtain the writ of arrest called *ne exeat Provincia*, is now to proceed under section 1 of this Act, which applies to actions in every Division of the High Court. Application of statute.

4. No writ of *capias* to arrest and hold to bail shall be issued for a cause of action less than \$100, but such writ may be issued when the cause of action equals or exceeds that sum. Arrest restricted to not less than \$100. R. S. O. 1877, c. 67, s. 1.

5. No person shall be subject to arrest who, by reason of any privilege, usage or otherwise, is by law exempt therefrom. Privileged persons not to be arrested. R. S. O. 1877, c. 67, s. 2.

6. Process of contempt for non-payment of any sum of money, or for non-payment of any costs, charges or expenses, payable by a judgment or order of the High Court or of a Judge thereof, or by a judgment or order of a County Court or a Judge thereof, is abolished; and no person shall be liable to arrest for non-payment of costs. Arrest for non-payment of money, costs, etc., abolished. R. S. O. 1877, c. 67, ss. 3, 10, *part.*

7. No married woman shall be liable to arrest either on mesne or final process. No married woman to be arrested. R. S. O. 1877, c. 67, s. 3.

8. No person shall be arrested or imprisoned on a claim or on a judgment recovered against him as a debtor for a penalty or sum of money in the nature of a penalty or forfeiture, whether the claim or judgment be in the name of such person alone, or in the form of proceeding known as *qui tam*, etc. (notwithstanding anything to the contrary in any statute providing for the recovery of such penalties or sums by action), except in cases and under circumstances where, on claims or judgments for ordinary debts, parties can be arrested or imprisoned. Arrest on claim or judgment for a penalty. R. S. O. 1877, c. 67, s. 4.

WRITS OF CAPIAS AD SATISFACIENDUM.

9. Where the defendant has been held to special bail upon a writ of *capias* issued on a Judge's order made under this Act, it shall not be necessary to obtain an order before suing out a writ of *capias ad satisfaciendum* or to file any further affidavit than that upon which the order was obtained in the first instance; but where the defendant has not been so held to special bail, if the plaintiff in the action, by the affidavit of himself or some other person shews to the satisfaction of a Judge of the High Court, or where the case is in a County Court, to the Judge or acting Judge of such Court, that he has recovered judgment against the defendant for the sum of \$100 or upwards, exclusive of costs, and also by affidavit shews such facts and circumstances as satisfy the Judge that there is good When writs of *ca. sa.* may issue without further affidavit.

When a further affidavit necessary and the contents thereof.

and probable cause for believing either that the defendant, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the plaintiff in particular, or that the defendant has parted with his property or made some secret or fraudulent conveyance thereof in order to prevent its being taken in execution, the Judge may order that a writ of *cupias ad satisfaciendum* be issued. R. S. O. 1877, c. 67, s. 7.

Orders for payment of money to be deemed judgments.

10. Every order of the High Court, and of a County Court, directing payment of money or of costs, charges or expenses, shall, so far as it relates to such money, costs, charges, or expenses, be deemed a judgment, and the person to receive payment a creditor, and the person to make payment a debtor, within the meaning of this Act; and the said persons shall respectively have the same remedies, and the Courts and Judges and the officers of justice shall in such cases have the same powers and duties, as in corresponding cases under this Act. R. S. O. 1877, c. 67, s. 12.

Person having carriage of the judgment, etc., to be deemed the plaintiff.

11. In case a judgment or order of the High Court directs the payment of money into Court, or to the credit of any cause, or otherwise than to any person, the person having the carriage of the judgment or order, so far as relates to the payment, shall be deemed the person to receive payment or the plaintiff (as the case may be) within the meaning of this Act. R. S. O. 1877, c. 67, s. 13.

CUSTODY OF PERSONS ARRESTED.

Person arrested out of his county may be transferred to it, paying the cost.

12. A person arrested and committed to gaol in any other county than that in which he resided or carried on business at the time, shall be entitled to be transferred to the gaol of his own county, on prepaying the expense of his removal; and the sheriff in whose county he was arrested may, if he is satisfied of the facts, transfer him accordingly; but if the sheriff declines to act without an order of the Court or a Judge, such an order shall be made on the application of the prisoner, and notice to the opposite party. R. S. O. 1877, c. 67, s. 14.

GAOL LIMITS.

Gaol limits.

13. The limits of every county for judicial purposes shall be the limits of the gaol of the county. R. S. O. 1877, c. 67, s. 15.

SECURITY FROM DEBTORS IN CIVIL CUSTODY.

Sheriff may take security from debtors in custody.

14. The sheriff of a county may take from a debtor confined in the gaol thereof, in execution or upon mesne process, a bond with not less than two nor more than four sufficient sureties, to be jointly and severally bound in a penalty of double the amount for which the debtor is so confined, conditioned, that

the debtor will observe and obey all notices, or orders of Court touching or concerning the debtor, or his appearing to be examined *viva voce*, or his returning and being remanded into close custody, and that upon reasonable notice to them or any of them, requiring them so to do, they will produce the debtor to the sheriff, and also that the debtor will within thirty days, cause the bond, or the bond that may be substituted for the same, according to the provisions hereinafter contained, to be allowed by the Judge of the County Court of the County wherein the debtor is confined, and the allowance to be endorsed thereon by the Judge: and for this purpose the sheriff shall, upon reasonable notice given by the debtor, cause such first mentioned bond to be produced before the Judge. R. S. O. 1877, c. 67, s. 16.

15. The sheriff may also require each surety, where there are only two, to make oath in writing, to be annexed to the bond, that he is a freeholder or householder in some part of Ontario (stating where), and is worth the sum for which the debtor is in custody (naming it) and \$200 more, over and above what will pay all his debts; or where there are more than two sureties, then he may require each surety to make oath as aforesaid, that he is a freeholder or householder as aforesaid, and is worth one-half the sum for which the debtor is in custody (naming it), and \$200 more, over and above what will pay all his debts. R. S. O. 1877, c. 67, s. 17.

Surety to make affidavit, etc.

16. Upon receipt of the bond, accompanied by an affidavit of a subscribing witness of the due execution thereof, and by the sureties' affidavits of solvency, if required by the sheriff, the sheriff may permit and allow the debtor to go out of close custody in gaol; and so long as the debtor in all respects observes the conditions of the bond, the sheriff shall not be liable to the party at whose suit the debtor is confined in any action for the escape of the debtor from gaol. R. S. O. 1877, c. 67, s. 18.

On receipt of bond, Sheriff may allow the debtor to go at large.

17. The debtor may apply for the allowance of the bond upon four clear days' notice in writing to the plaintiff or his solicitor, who at the time of the application may object to the sufficiency of the sureties; and if the Judge refuses allowance of the bond, then the debtor may cause another bond, made to the sheriff in the same terms and under the same conditions, to be executed without further application to the sheriff, and may apply in like manner and upon like notice for the allowance thereof; and the bond, if allowed and endorsed as aforesaid, shall be substituted for and have the like effect in all respects, and the like remedies shall be had thereon, as the bond so first given to the sheriff as aforesaid would have had upon the allowance thereof, and the first given bond shall thereupon become void. R. S. O. 1877, c. 67, s. 19.

Application for allowance of bond to be made on motion, etc.

When bond allowed, Sheriff discharged from responsibility.

18. Upon the allowance being so endorsed, the sheriff shall be discharged from all responsibility respecting the debtor, unless the debtor is again committed to the close custody of the sheriff in due form of law. R. S. O. 1877, c. 67, s. 20.

Conditions of bail-bond under writ of *ca. sa.* or of attachment under sec. 10.

19. Persons who give bail under a writ of *capias ad satisfaciendum* shall not be bound to remain within the gaol limits, but may depart therefrom at their discretion; and when a person desires to give bail under such a writ the condition of the bond to the sheriff shall provide that the person arrested shall observe and obey all notices, orders and rules of the Court concerning the debtor or person ordered to pay, or his appearing to be examined *viva voce* or otherwise, or his returning and being remanded into close custody; and the party or his bail shall not be entitled to claim longer time for so observing or obeying than he would have been entitled to if the party had been on the limits according to the practice before the 4th day of May, 1859, but the Court may grant further time if of opinion that the same may be done without substantial injury to the interests of the party to receive the money. R. S. O. 1877, c. 67, s. 21.

If the sureties become insufficient, Sheriff may re-take the debtor.

20. In case the sheriff has good reason to apprehend that any surety has after entering into the bond, become insufficient to pay the amount sworn to, the sheriff may again arrest the debtor, and detain him in close custody. R. S. O. 1877, c. 67, s. 22.

The sureties may plead such arrest.

21. The sureties of the debtor may set up the arrest and detention as a defence to any action brought against them upon the bond entered into by them, and the defence if sustained in proof shall wholly discharge them; and the debtor may again be allowed to go at large, on giving to the sheriff a new bond with sureties as aforesaid. R. S. O. 1877, c. 67, s. 23.

Bonds may be assigned.

22. Upon breach of the condition of any such bond, the party at whose suit the debtor is confined may require the sheriff to assign the same to him, and the assignment shall be made in writing, under the seal of the sheriff and attested by at least one witness, and the assignee of the sheriff or the executors or administrators of the assignee may maintain an action in his or their own names upon the bond, which action the sheriff shall have no power to release; but upon executing an assignment as aforesaid, the sheriff shall be thenceforth discharged from all liability on account of the debtor or his safe custody. R. S. O. 1877, c. 67, s. 24.

Sureties may surrender debtor.

23. The sureties of any debtor may surrender him into the custody of the sheriff at the gaol, and the sheriff, his deputy or gaoler shall there receive the debtor into custody.

and the sureties may set up the surrender or offer to surrender and the refusal of the sheriff, his deputy or gaoler to receive the debtor into custody at the gaol, as a defence to any action brought on the bond for a breach of the condition happening after the surrender or tender and refusal, and the defence if sustained in proof, shall discharge them; but the debtor may again be allowed to go at large, on giving to the sheriff a new bond, with sureties as aforesaid. R. S. O. 1877, c. 67, s. 25.

24. The party at whose suit any debtor has been confined may, at any time while the debtor is at large upon bail, apply to the Court or Judge for an order for the examination of the debtor, in the manner provided in *The Act respecting the Relief of Indigent Debtors*, and in case the debtor neglects or omits to submit himself to be examined pursuant to the order, or refuses to make full answer in respect to the matters touching which he is examined, to the satisfaction of the Court or Judge, the Court or a Judge may order the debtor to be committed to close custody, and the sheriff, on due notice of the order, shall forthwith take the debtor and commit him to close custody until he obtains an order of the Court or a Judge for again allowing him to go out of close custody, on giving the necessary bond as aforesaid, or until he is otherwise discharged by due course of law. R. S. O. 1877, c. 67, s. 26.

Debtor on bail liable to be examined.

Rev. Stat. c. 68.

Or be re-committed.

25. A new order may be granted on the debtor shewing that he has submitted himself to be examined and made full answer as aforesaid, and has thereafter given to the plaintiff or his solicitor ten days' notice of his intention to apply. R. S. O. 1877, c. 67, s. 27.

On answering debtor may be again allowed to go at large.

26. The party at whose suit a debtor has been confined in execution may, wherever the debtor has been admitted to bail, sue out a writ against his goods or lands, notwithstanding that the debtor has been charged in execution; and the writ shall not be stayed, but shall be proceeded with until executed, although the debtor be re-committed to close custody. R. S. O. 1877, c. 67, s. 28.

Plaintiff may have execution against property of debtor on bail.

DISCHARGED FROM CUSTODY.

27. A person arrested under a writ of *capias ad satisfaciendum* or under a writ of attachment, though he is not confined to close custody but has given bail may apply for and obtain his discharge in the same manner and subject to the same terms and conditions as nearly as may be as an execution debtor who is confined to close custody. R. S. O. 1877, c. 67, s. 31.

CASES OF SEPARATION OF UNITED COUNTIES.

Proceedings under bailable process in cases of dissolution of a Union of Counties.

28. A person arrested or held to bail before the separation of a junior from a senior county, and liable to be imprisoned, shall be so imprisoned in the gaol of the county in which he was arrested; and all proceedings in the action in which a person was so arrested or held to bail, and all proceedings after judgment founded on the arrest or holding to bail, shall be carried on as if the arrest or holding to bail had taken place in such county as a separate county; and in case the proceedings are to be had in the junior county, all the records and papers relative to the case shall be transmitted to the proper officer of the junior county. R. S. O. 1877, c. 67, s. 29.

Gaol for debtor where United Counties dissolved.

29. In case a debtor or other person is admitted to bail in a union of counties, and the union is afterwards dissolved, or one or more counties are separated therefrom, and in case such person after the dissolution of the union is surrendered or ordered to be committed to close custody, he shall be surrendered or committed to the sheriff of the county in which he is arrested, and be imprisoned in the gaol thereof. R. S. O. 1877, c. 67, s. 30.

LIABILITY OF SHERIFF FOR ESCAPE.

Sheriff only to be liable for damages sustained.

30. If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor, shall be liable only to an action for damages sustained by the person or persons at whose suit the debtor was taken or imprisoned, and shall not be liable to any other action in consequence of the escape. R. S. O. 1877, c. 67, s. 33. *See also* cap. 16, s. 30.

DEBTORS IN CRIMINAL CUSTODY.

This Act not to extend to debtors in custody on criminal charges.

31. None of the foregoing provisions relative to the discharge from custody or admission to bail shall extend or be applicable to debtors who are at the same time in custody upon any criminal charge. R. S. O. 1877, c. 67, s. 32.

CHAPTER 68.

An Act respecting the Relief of Indigent Debtors.

SHORT TITLE, s. 1.	Condition of discharge, s. 11.
WEEKLY ALLOWANCE TO DEBTORS IN CLOSE CUSTODY:	Re-committal in cases of fraud, breach of promise, seduction, etc., s. 12.
When allowed, ss. 2-6.	Re-committal where unduly discharged, s. 13.
Discharge of debtor if not paid, s. 3.	PRODUCTION OF DEBTOR FOR EXAMINATION, s. 14.
Recovery of allowance from debtor s. 7.	JUDICATURE ACT TO APPLY, s. 15.
DISCHARGE FROM CUSTODY ON GROUND OF INDIGENCE:	ACT NOT TO APPLY TO DEBTORS IN CUSTODY ON CRIMINAL CHARGES, s. 16.
Application for discharge, ss. 8-10.	
Examination of debtor, ss. 8-10.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. This Act may be cited as "*The Indigent Debtors' Act.*" short title.
R. S. O. 1877, c. 69, s. 1.

2. If a debtor in close custody:

1. Upon *mesne* process; or

2. In execution; or

3. Upon any other final process, for non-payment of any sum of money awarded, or for non-payment of any claim in the nature of a debt or demand due, being a sum certain or capable of being ascertained by computation and not being in the nature of a penalty to enforce the doing of some act other than the payment of a sum of money (in which several cases the debtor shall be deemed to be a prisoner in execution),—

In what cases debtors in close custody to be entitled to weekly allowance.

Makes oath;

(a) That he is a prisoner in close custody, setting forth on Affidavit which of the causes of detention above specified; and required.

(b) That he is unable to find bail; and

(c) That he is not worth the sum of \$20;

And in case he is in custody on *mesne* process,

- (d) That he does not believe the demand of the plaintiff to be just, and for that cause, and no other, resists payment of the same and refuses to confess judgment for the sum sworn to,

The allowance when payable.

the Court from which the process issued, or a Judge shall make an order on the plaintiff at whose suit the debtor is detained, to pay to the debtor on the third Monday after the service of the order, and upon each Monday thereafter, so long as the debtor is detained in prison at the suit of the plaintiff the sum of \$2, and the payment shall be made to the debtor or to the gaoler in whose custody he is, for the use of the debtor. R. S. O. 1877, c. 69, s. 2.

When debtor entitled to be discharged if allowance not paid.

3. In default of payment of the allowance, the debtor on his affidavit of the default and upon notice to the plaintiff shall, unless sufficient cause is shewn be entitled to an order for discharge; but the discharge shall not, in case the debtor was confined on *mesne* process, prevent the plaintiff from proceeding to judgment and execution against the body, lands or goods, according to the practice, and in case the debtor is a prisoner in execution, the discharge shall not be a release or satisfaction of the judgment or other debt or demand, or deprive the plaintiff of any remedy against the lands or goods of the debtor. R. S. O. 1877, c. 69, s. 3.

Effect of discharge.

Debtor not entitled to allowance or to his discharge in default of payment until he has answered satisfactorily touching his property.

4. Where a debtor applies for the weekly allowance, or to be discharged from custody for non-payment thereof, the plaintiff may apply for an order that the debtor shall be examined *viva voce* on oath for the purpose of discovering any property or effects the debtor may be possessed of or entitled to, or which may be in the possession or under the control of some other person for his use or benefit, or which he may have fraudulently disposed of to injure his creditor, and until the debtor has made full answer respecting the same to the satisfaction of the Court or Judge, no order for the payment of the weekly allowance shall be made, or if previously made, no order for his discharge for non-payment thereof shall be made. R. S. O. 1877, c. 69, s. 4.

Examination of debtor.

5. If the debtor has obtained an order for payment of the weekly allowance, the plaintiff may at any time apply for an order for examination, and the Court or Judge, on the application of the plaintiff, may stay further payment until the debtor has made full answer as aforesaid to the satisfaction of the Court or Judge. R. S. O. 1877, c. 69, s. 5.

Defendant in custody on several writs, only entitled to one allowance, etc.

6. In case the debtor is a prisoner in close custody in several actions or matters, he must make all the plaintiffs parties to his application for the weekly allowance, and he shall only be entitled to one weekly sum of \$2; and if the weekly allowance be unpaid, the debtor shall have the same right as when in custody in one action only, to

be discharged from custody in all the actions or matters named in the order for payment, and the plaintiffs named in the order must all be made parties on an application for the debtor's discharge on account of non-payment, and all the plaintiffs must join in the examination of the defendant, and they shall regulate among themselves the apportionment and the payment of the weekly allowance. R. S. O. 1877, c. 69, s. 6.

7. The plaintiff shall be entitled to recover from his debtor all sums paid to him for weekly allowance while a prisoner on *mesne* process, and upon proof before the taxing officer, the amount shall be taxed as disbursements in the action. R. S. O. 1877, c. 69, s. 7.

Allowance may be recovered from debtor as costs.

8. In case a debtor, according to the intent and meaning of this Act, confined in close custody in execution, gives to the party at whose suit he is a prisoner or to his solicitor, a notice in writing that he will, after the expiration of ten days from the day of service apply to be discharged from custody, the plaintiff, at whose suit he is confined, may apply to the Court or a Judge for an order that the debtor be examined *viva voce* on oath, for the purpose of discovering any property or effects which the debtor is possessed of or entitled to, or which are in the possession or under the control of some other person for the use or benefit of the debtor, or which the debtor, having been in possession of, may have fraudulently disposed of to injure his creditor, and touching the debtor's estate and effects, and the circumstances under which he contracted the debt or incurred the liability which was the subject of the action in which judgment has been rendered against him, and as to the means and expectations the debtor then had, and as to the property and means he still has, and as to the disposal he may have made of his property. R. S. O. 1877, c. 69, s. 8.

A debtor in custody in execution, may apply to be discharged.

Examination of debtor as to his property, etc.

9. After the expiration of ten days from the day of the service of notice as aforesaid, and upon the debtor's making oath that he is not worth \$20 exclusive of the goods and chattels exempt from execution, and that he has submitted himself to be examined pursuant to order (or that no such order has been served), the debtor may upon notice apply to the Court or a Judge for an order of discharge, and upon the hearing of the application, where such examination has taken place, if the matter thereof is deemed satisfactory, the debtor shall be discharged from custody, and the discharge shall have effect only as a discharge for non-payment of the weekly allowance. R. S. O. 1877, c. 69, s. 9.

Application of debtor for discharge.

Discharge and its effect.

10. In case the plaintiff has already caused the debtor to be examined *viva voce*, and in case upon the hearing of the application, further enquiry appears requisite for the ends of justice, the Court or Judge may allow the plaintiff a reasonable time to cause the debtor to be further examined

Further examination of debtor may be ordered.

viva voce, and may allow a reasonable time for the debtor to submit to the further examination, before the application is finally disposed of. R. S. O. 1877, c. 69, s. 10.

Discharge may be on condition of assignment by debtor.

11. It may be a condition of the debtor's discharge that he shall first, by an assignment or conveyance, to be approved of by the Court or Judge assign and convey to the party at whose suit he is in custody, any right or interest which he may have or be presumed to have in and to any property, real or personal, credits and effects, other than goods and chattels exempt from execution. R. S. O. 1877, c. 69, s. 11.

Re-committal for not more than 12 months, in cases of fraud, seduction, libel, etc.

12. In case it appears that the debt for which the debtor is confined was contracted by any manner of fraud or breach of trust, or under false pretences, or that the debtor wilfully contracted the debt or incurred the liability without having had at the same time a reasonable assurance of being able to pay or discharge the same, or that he is confined by reason of any judgment in an action for breach of promise of marriage, seduction, criminal conversation, libel or slander, the Court or Judge may order the applicant to be re-committed to close custody for a period not exceeding twelve months, and to be then discharged. R. S. O. 1877, c. 69, s. 12.

Debtor unduly obtaining discharge may be re-taken in execution.

13. In case a discharge granted under this Act has been unduly or fraudulently obtained by a false allegation of circumstances which, if true, might have entitled the debtor to be discharged by virtue of this Act, the debtor shall, upon the same being made to appear to the satisfaction of the Court or a Judge as aforesaid, be liable to be again taken in execution and remanded to his former custody by order of the Court or a Judge; but no sheriff or gaoler shall be liable as for an escape of the debtor in respect of his enlargement during the time he has been at large by means of his undue discharge as aforesaid. R. S. O. 1877, c. 69, s. 13.

Debtor to be taken before the Judge or officer for examination.

14. The Court or Judge making any order for examination of a debtor under this Act may issue an order to the sheriff or gaoler having the custody of the debtor, to bring the debtor before him or before some person (to be named in the order), for the purpose of being so examined, and the sheriff or gaoler shall take the debtor before the Judge or person named as aforesaid, for examination under the authority of this Act, in the same manner as if the sheriff or gaoler were acting in obedience to a writ of *habeas corpus ad testificandum*. R. S. O. 1877, c. 69, s. 14.

Judicature Act and Rules to apply to this Act.

15. *The Judicature Act* and Rules shall so far as applicable apply to this Act. R. S. O. 1877, c. 69, s. 15.

Debtors in custody on criminal charges excepted.

16. None of the foregoing provisions relative to the weekly allowance, or discharge from custody on account of indigence, shall extend or be applicable to debtors who are at the same time in custody upon a criminal charge. R. S. O. 1877, c. 69, s. 16.

CHAPTER 69.

An Act respecting the Restitution of Stolen Goods.

WHEREAS it often happens that property supposed or alleged to be stolen is found in possession of a person who is afterwards convicted of felony, or misdemeanour, in stealing, taking, obtaining, extorting, embezzling, appropriating, converting or disposing of, or in knowingly receiving other chattels, money, valuable security, or other property, and one or more other charge or charges is or are pending against such prisoner, and there is no intention of proceeding upon such other charge or charges, because of the person having been convicted as aforesaid, and because no additional punishment would be imposed if additional convictions were obtained; and whereas it is expedient in such case to give to the owners or other persons entitled to the possession of the property a summary remedy for the recovery thereof;

Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. If in such a case the counsel acting for the Crown intimates that the Crown does not intend to proceed upon any charge in respect of the property so found in the prisoner's possession as first aforesaid, the Judge before whom the prisoner was convicted may, upon the application of the prosecutor or other person claiming the property, summarily try at the same sittings of the Court or at a subsequent time, the right of the prisoner and of the claimant to the property; and if the Judge finds that the claimant is the owner or is entitled to the possession thereof, he may order the property to be delivered to the claimant, and the order shall be an absolute protection to the officer or other person who has the custody of the property in delivering the same as directed by the order. 45 V. c. 12, s. 1.

Order for delivery of property after summary trial.

2. Nothing herein contained shall be held to bar the right of the person convicted to take proceedings for the recovery of the property against the person receiving the same under the order; and the Judge may, if he thinks fit, require the person in whose favour the order is made to give security for the return of the property to the person so convicted, in case the latter should thereafter be held to be entitled thereto. 45 V. c. 12, s. 2.

Right of person convicted not barred by order.

3. If, before an order is made, it appears that a valuable security so found in a prisoner's possession has been *bona fide* paid or discharged by some person liable to the payment there-

When order for restitution not to be made.

of, or, being a negotiable instrument, has been *bona fide* taken or received by transfer or delivery by some person for a just and valuable consideration, without notice, or without reasonable cause to suspect, that the same had been, by felony or misdemeanour, stolen, taken, obtained, extorted, embezzled, converted or disposed of, in such case the Court shall not order the restitution of the security. 45 V. c. 12, s. 3.

Application of
Act.

4. Nothing in this Act contained shall apply to the case of a prosecution of a trustee, banker, merchant, attorney, factor, broker, or other agent entrusted with the possession of goods or documents of title to goods, for a misdemeanour against the Act of the Parliament of Canada, intituled *An Act respecting Larceny and similar offences*. 45 V. c. 12, s. 4.

Right of
Crown pre-
served.

5. Nothing herein contained shall be construed as intended to affect the right of the Crown to claim property as forfeited for felony. 45 V. c. 12, s. 5.

CHAPTER 70.

An Act for more effectually securing the Liberty of the Subject.

<i>Habeas Corpus</i> ad subjiciendum, WHEN AWARDED, s. 1.	<i>Certiorari</i> TO BRING PAPERS AND PROCEEDINGS BEFORE THE COURT, s. 5.
PROCEEDINGS IN CASE OF DISOBEDIENCE TO WRIT, ss. 2, 3.	APPEAL TO THE COURT OF APPEAL FROM A REMANDMENT TO CUSTODY, s. 6.
PROCEEDINGS FOR INQUIRING INTO TRUTH OF RETURN, s. 4.	ACT TO EXTEND TO ALL CASES WHERE WRIT ISSUES, s. 7.
	RULES AND ORDERS, s. 8.

Preamble.

Imp. Act, 31,
Car. ii. c. 2.

WHEREAS the writ of *Habeas Corpus* has been found by experience to be an expeditious and effectual method of restoring any person to his liberty, who has been unjustly deprived thereof; and whereas extending the remedy of the writ, and enforcing obedience thereunto, and preventing delays in the execution thereof, will be advantageous to the public; and whereas the provisions made by an Act passed in England, in the 31st year of King Charles the Second entitled, *An Act for the better securing the Liberty of the Subject and for prevention of imprisonment, beyond the seas*, only extend to cases of commitment or detainer for criminal or supposed criminal matter;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where a person is confined or restrained of his liberty (except persons imprisoned for debt, or by process in any action, or by the judgment, conviction or order of a Court of Record, Court of Oyer and Terminer or General Gaol Delivery, or Court of General Sessions of the Peace,) a Judge of the High Court shall, upon complaint made, by or on behalf of the person so confined or restrained, if it appears by affidavit (or affirmation in cases where by law an affirmation is allowed) that there is probable and reasonable ground for the complaint, to award at any time a writ of *habeas corpus ad subjiciendum* under the seal of the Court directed to the person in whose custody or power the party so confined or restrained is, returnable immediately before the Judge so awarding the same, or before the Judge in Chambers for the time being, or before a Divisional Court. R. S. O. 1877, c. 70, s. 1.

In what cases
Hab. Corp. ad
Subjiciendum
may be award
ed, and by
whom in
Vacation

2. If the person to whom a writ of *habeas corpus* is directed according to the provisions of this Act, upon service of the writ, either by the actual delivery thereof to him, or by leaving the same at the place where the party is confined or restrained, with any servant or agent of the person so confining or restraining, wilfully neglects or refuses to make a return or pay obedience thereto, he shall be deemed guilty of a contempt of Court, and the Court or Judge, upon proof by affidavit of wilful disobedience of the writ, may issue a warrant for apprehending and bringing before the Court or Judge, the person so wilfully disobeying the writ, to the end that he may be bound to Her Majesty with two sufficient sureties in such sum as in the warrant is expressed, with the condition to appear in the Court, at a day to be mentioned in the warrant, to answer the matter of contempt with which he is charged. R. S. O. 1877, c. 70, s. 2.

Proceedings
in case of dis-
obedience to
the writ.

Warrant for
contempt.

3. In case of neglect or refusal to become bound as aforesaid, the Court or Judge may commit the person so neglecting or refusing, to the Common Gaol of the County wherein he resides, or may be found, there to remain until he becomes bound as aforesaid, or is discharged by order of the Court, or a Judge; and the recognizance to be taken thereupon shall be returned and filed and shall continue in force until the matter of the contempt has been heard and determined, unless sooner ordered by the Court to be discharged. R. S. O. 1877, c. 70, s. 3.

Committal.

4. In cases provided for by this Act, though the return to a writ of *habeas corpus* is good and sufficient in law, the Court or Judge before whom the writ is returnable, may proceed to examine into the truth of the facts set forth in the

Proceedings
for inquiring
into the truth
of the matters
alleged in the
return.

return, by affidavit or other evidence, and may order and determine touching the discharging, bailing, or remanding the party. R. S. O. 1877, c. 70, s. 6.

Certiorari to bring proceedings and papers before the Court for examination.

5. In cases in which a writ of *habeas corpus* is issued under the authority of this Act, or otherwise, the Court or Judge may direct the issuing of a writ of *certiorari* directed to the person by whom or by whose authority any person is confined or restrained of his liberty, or other person having the custody or control thereof, requiring him to certify and return to the Court or Judge as by the writ may be provided, all the evidence, depositions, convictions, and all proceedings had or taken, touching or concerning such confinement or restraint of liberty, to the end that the same may be viewed and considered by the Court or Judge, and to the end that the sufficiency thereof to warrant such confinement or restraint, may be determined. R. S. O. 1877, c. 70, s. 8.

Appeal from remandment to custody.

6. In case a person confined or restrained of his liberty, is brought before the Court or Judge upon a writ of *habeas corpus*, and is remanded to custody again upon the original order or warrant of commitment, or by virtue of any warrant, order or rule of such Court or Judge, such person may appeal from the decision or judgment of the said Court or Judge to the Court of Appeal; and thereupon the writ of *habeas corpus*, the return thereto, and all and singular the affidavits, depositions, evidence, conviction and other proceedings shall be certified by the proper officer under the seal of the Court, to the Court of Appeal; and the Court of Appeal shall thereupon hear and determine the appeal without any formal pleadings whatever; and if the Court of Appeal adjudges or determines that the confinement or restraint is illegal, the Court shall certify the same, under the seal of the Court, to the person having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly. R. S. O. 1877, c. 70, s. 9.

Certifying proceedings to Court of Appeal.

Court may order discharge.

Certain provisions of this Act to extend to all cases where the writ issues.

7. The several provisions made in this Act, shall extend to all writs of *habeas corpus* awarded in pursuance of the said Act passed in England in the 31st year of the reign of King Charles the Second, or otherwise, in as ample and beneficial a manner as if such writs and the said cases arising thereon had been hereinbefore specially named and provided for respectively. R. S. O. 1877, c. 70, s. 10.

Rules and Orders.

8. The Supreme Court and the Court of Appeal respectively, may, from time to time, and as often as occasion requires, make such rules of practice in reference to the proceedings on writs of *habeas corpus* as may seem necessary or expedient. R. S. O. 1877, c. 70, s. 11.

[See 29-30 V. c. 45, Canada.]

7. ADMINISTRATION OF JUSTICE IN CRIMINAL MATTERS.

1. Justices of the Peace.

CHAPTER 71.

An Act respecting the Qualification and Appointment of Justices of the Peace.

JUDGES TO BE JUSTICES OF THE PEACE	PENALTY FOR ACTING WITHOUT BEING
EX-OFFICIO, s. 1.	QUALIFIED OR HAVING TAKEN
APPLICATION OF ACT, s. 2.	OATH, s. 15.
APPOINTMENT OF JUSTICES, ss. 3-5	PROCEEDINGS TO ENFORCE PENALTY,
QUALIFICATION, ss. 6-9.	ss. 16-22.
OATH OF QUALIFICATION AND OFFICE,	LIMITATION OF ACTIONS, s. 23.
ss. 10-13.	APPLICATION OF PENALTIES, s. 24.
NEW OATH NOT NECESSARY ON RE-	
APPOINTMENT, s. 14.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Every Judge of the Supreme Court of Canada, of the Ex- Judges to be
chequer Court of Canada, and of the Supreme Court of justices of the
Judicature for Ontario, shall be, *ex-officio*, a Justice of the Peace ex-
for every county and part of Ontario. 41 V. c. 4, s. 1.

2. The following sections of this Act shall not apply to the Provisions in
members of Her Majesty's Executive Council, or to the Judges of this Act not to
the Supreme Court of Judicature, or to any County Judge, or to extend to per-
any Police Magistrate, or to Her Majesty's Attorney-General, sons holding
or to any of Her Majesty's Counsel in the Law, or to any certain situa-
Mayor, Alderman, Reeve or Deputy-Reeve of any Municipality.
R. S. O. 1877, c. 71, s. 22; 49 V. c. 16, s. 18.

3. It shall be lawful for the Lieutenant-Governor, whenever Appointment
he thinks fit, to appoint under the Great Seal of Ontario or the by the Lieut.-
Privy Seal of the Lieutenant-Governor, as the case may require, Governor in
one or more Justices of the Peace in and for every County, Council.

City, and Town in the Province and in and for any Provisional Judicial, Temporary Judicial or Territorial District or Provisional County, or for any portion of the territory of the Province not attached to any County for ordinary municipal and judicial purposes. R. S. O. 1877, c. 71, s. 1. *See also Cap. 91, s. 8.*

Revocation by new Commission.

4. Where a new general commission of the peace is issued, all and such like former general commissions shall become absolutely revoked and cancelled; but nothing in this Act contained shall prevent the re-appointment of any Justice of the Peace named in the former commission, if the Lieutenant-Governor thinks fit, and the issue of a supplementary commission of the peace for any County shall not operate as a revocation of a General Commission. R. S. O. 1877, c. 71, s. 2.

Revocation of Commissions for a town when it becomes a city.

5. Where a town has been erected into a city, and the council of the city duly organized, every commission of the peace theretofore issued for the town shall cease. R. S. O. 1877, c. 71, s. 3.

Justices of the Peace to be of the most sufficient persons.

6. Except where otherwise specially provided, all Justices of the Peace appointed in this Province shall be of the most sufficient persons dwelling in the counties, districts or places respectively for which they are appointed. R. S. O. 1877, c. 71, s. 4.

Unless specially provided no practising solicitor to be Justice of the Peace.

7. Except where otherwise specially provided by law, no solicitor in any Court whatever shall be a Justice of the Peace during the time he continues to practise as a solicitor. R. S. O. 1877, c. 71, s. 5.

Sheriffs and Coroners acting as such disqualified from acting as Justices of the Peace.

8. No person having, using or exercising the office of sheriff or coroner in and for any county, district or place in Ontario shall be competent or qualified to be a Justice of the Peace or to act as such for any county, district or place wherein he is sheriff or coroner, during the time that he uses or exercises such office, under the penalties hereinafter mentioned; and every act done by a sheriff or coroner, by the authority of any commission of the peace, during the time aforesaid, shall be absolutely void and of none effect; but a stipendiary magistrate for any territorial or temporary judicial district may be a coroner for the district. R. S. O. 1877, c. 71, s. 6; 48 V. c. 13, s. 30.

Property qualification.

9. Except where otherwise provided by law, no person shall be a Justice of the Peace, or act as such, who has not in his actual possession, to and for his own proper use and benefit, an estate in free and common soccage, in absolute property, or for life, or lease for one or more lives, or originally created for a term not less than twenty-one years, in lands, tenements, or here-

ditaments, lying and being in this Province, of or above the value of \$1,200 over and above what will satisfy and discharge all incumbrances affecting the same, and over and above all rents and charges payable out of or affecting the same. R. S. O. 1877, c. 71, s. 7.

10. Every Justice of the Peace before he takes upon himself to act as a Justice of the Peace, shall take and subscribe the oath following, before some Justice of the Peace, or before any person appointed by the Lieutenant-Governor to administer oaths and declarations, or before the clerk of the peace for the county or district for which he intends to act, that is to say :

Oath of Qualification.

“ I, A. B., do swear, that I truly and *bona fide* have to and for my own proper use and benefit such an estate as qualifies me to act as a Justice of the Peace for the County (or as the case may be) of _____, according to the true intent and meaning of *The Act respecting the Qualification and Appointment of Justices of the Peace to wit (nature of such estate, whether land and if land, designating)*, and that the same is lying and being (or is issuing out of lands, tenements and hereditaments, situate) within the Township (or in the several Townships or as the case may be) of _____ .
—So help me God.”

R. S. O. 1877, c. 71, s. 8.

[*Stipendiary and Police Magistrates do not require a property qualification. See cap. 72, s. 24; cap. 91, s. 5.*]

11. Any Justice of the Peace, in lieu of the oath of office heretofore taken by Justices of the Peace, may take the oath following, and the same may be taken before any other Justice of the Peace, or before any person appointed by the Lieutenant-Governor to administer oaths and declarations, or before the clerk of the peace of the county or district in which the Justice is to act, that is to say :

Oath of office.

“ I, A. B., of the _____, in the County of _____ do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of Justice of the Peace, and I will do right to all manner of people, after the laws and usages of this Province, without fear or favour, affection or ill will : So help me God.”

41 V. c. 4, s. 8 (1) and Sched. A.

12.—(1) Every oath of qualification, and every oath of office or allegiance taken by a Justice of the Peace, shall forthwith after the same is taken be transmitted or delivered by the Justice of the Peace to the clerk of the peace of the county or district within which the Justice of the Peace is to act, and shall be filed in the office of the clerk of the peace.

Oaths to be sent to Clerk of Peace.

(2) In the case of Justices of the Peace for the Temporary Judicial District of Nipissing, the oath shall be filed with the clerk of the peace for the county of Renfrew. 41 V. c. 4, s. 8 (3); R. S. O. 1877, c. 71, s. 9.

Clerks of the Peace to deliver on demand an attested copy of such oath.

13. The clerk of the peace shall upon demand, forthwith deliver a true and attested copy of the oath in writing to any person paying the sum of twenty cents for the same; which copy being produced as evidence on the trial of any action under this Act, shall have the same force and effect as the record of the oath would have if produced. R. S. O. 1877, c. 71, s. 10.

No new oath required from persons who have before qualified.

14. It shall not be necessary for any Justice of the Peace named in any commission who, after his appointment as such Justice by a former commission took the oath of allegiance and the oath of office as a Justice of the Peace, to again take such oaths or either of them before acting under the new commission, nor shall it be necessary for any such Justice who has under any former Commission qualified himself in the terms of section 10 of this Act, and deposited the oath in the office of the clerk of the peace, to take any oath of qualification before acting under such new commission, unless the Justice, since he took the oath of qualification, has parted with the estate in right of which he qualified. R. S. O. 1877, c. 71, s. 11; 41 V. c. 4, s. 8 (3); 48 V. c. 13, s. 33.

Penalty on Justices of the Peace acting without having taken the oath and not being qualified.

15. When not otherwise provided, any person who acts as Justice of the Peace in and for any county, district or place in this Province, without having taken and subscribed the oath of qualification referred to in section 10, or without being qualified according to the true intent and meaning of this Act, shall for every such offence forfeit the sum of \$100, one moiety to Her Majesty, and the other moiety to such person as sues for the same, to be recovered, with full costs, by action in any Court having competent jurisdiction in the county, district or place wherein the offence has been committed, and in every such action the proof of his qualification shall be upon the defendant. R. S. O. 1877, c. 71, s. 12.

Manner of proceeding to enforce such penalty.

16. If the defendant in such action intends to insist upon any lands, tenements or real estate, not mentioned in the oath aforesaid, as constituting the whole or any part of his qualification to act as a Justice of the Peace, at the time of the offence alleged against him, he shall, at or before the time of his pleading, deliver to the plaintiff or to his solicitor notice in writing, specifying such lands, tenements or real estate, and the township or place, and the county or district in which the same are respectively situate, and if the plaintiff, in the action, thinks fit thereupon not to proceed any further, he may, with leave of the Court, discontinue on payment of such costs as the defendant may be entitled to, according to the practice of the Court. R. S. O. 1877, c. 71, s. 13.

Defendant may give notice of other lands.

Lands not mentioned in the oath or notice inadmissible in proof of qualification.

17. Upon the trial of such action, no lands, tenements, or real estate which are not mentioned in the oath or notice aforesaid, shall be insisted upon by the defendant as part of his qualification. R. S. O. 1877, c. 71, s. 14.

18. Where the lands, tenements or real property mentioned in the oath or notice, are, together with other lands, tenements or real property belonging to the person taking the oath, or delivering the notice, liable to any charges, rents or incumbrances, then the lands, tenements and real property, mentioned in the oath or notice, shall be deemed liable and chargeable only so far as the other lands, tenements and real property so jointly charged are not sufficient to pay, satisfy or discharge the same. R. S. O. 1877, c. 71, s. 15.

When charges on land limited.

19. Where the qualification hereby required, or any part thereof, consists of rent, it shall be sufficient to specify in the oath or notice, so much of the lands, tenements, or real property out of which the rent is issuing, as is of sufficient value to secure the rent. R. S. O. 1877, c. 71, s. 16.

If qualification consists of rent.

20. In case the plaintiff in such action discontinues the same, otherwise than as aforesaid, or judgment is given against him, the defendant shall recover treble costs. R. S. O. 1877, c. 71, s. 17.

Defendant if successful to recover treble costs.

21. In case an action is brought, and due notice thereof is given to the defendant, no proceedings shall be had upon any subsequent action, against the same person, for any offence committed before the time of giving the notice; and the Court wherein a subsequent action is brought and pending, may, upon the defendant's motion, stay the proceedings if the first action is prosecuted without fraud and with effect, and no action shall be deemed an action, within this Act, unless it is so prosecuted. R. S. O. 1877, c. 71, s. 18.

When subsequent action to be stayed.

22. The Court in which an action is brought for the recovery of a penalty imposed by this Act, shall require from the plaintiff his declaration upon oath that the action is brought without fraud, and not for the purpose of protecting the defendant from any action which might be brought by any other person, by reason of the same offence; and if the declaration is not made to the satisfaction of the Court, the action shall be immediately dismissed with costs. R. S. O. 1877, c. 71, s. 19.

Manner of proceeding in actions instituted for the recovery of penalties.

23. Every action under this Act, shall be commenced within the space of six months next after the fact committed. R. S. O. 1877, c. 71, s. 20.

Limitation of actions.

24. The fines and penalties incurred and payable to Her Majesty, by virtue of this Act, shall be paid into the hands of the Provincial Treasurer, for the public uses of the Province. R. S. O. 1877, c. 71, s. 21.

Fines and penalties to be paid to Provincial Treasurer.]

CHAPTER 72.

An Act respecting Police Magistrates.

TENURE OF OFFICE, s. 1.

APPOINTMENTS,

In Cities and Towns, ss. 2-7.

In Counties, ss. 8-17.

GENERAL PROVISIONS, ss. 18-30.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Tenure of office.

1. Every Police Magistrate shall be appointed by the Lieutenant-Governor, and shall hold office during pleasure. R. S. O. 1877, c. 72, s. 3; 50 V. c. 11, s. 4.

IN CITIES, AND TOWNS.

In what cases Police Magistrate to be appointed.

2.—(1) Every city and every town having more than five thousand inhabitants, shall have a Police Magistrate, and the salary of the Police Magistrate shall not be less than on the following scale :—

Salaries of Police Magistrates in cities.

(a) In cities \$1,400 per annum (but any salary of a larger amount paid to any Police Magistrate, on the 29th day of March, 1873, shall be continued whilst such Magistrate remains in office);

In towns.

(b) In towns—where the population is not more than six thousand—\$800 per annum; where the population is over six thousand and not more than eight thousand—\$1,000 per annum; where the population is over eight thousand—\$1,200 per annum.

and the salaries shall be paid half-yearly by the city or town. R. S. O. 1877, c. 72, s. 1.

Police Magistrates in towns having less than 5,000 inhabitants.

3.—(1) Every other town may, if the Lieutenant-Governor in Council sees fit to make an appointment, have a Police Magistrate.

(2) No appointment of a salaried Police Magistrate shall in the first instance be made for a town not having more than five thousand inhabitants, until two-thirds of the members of the council do, in council, pass a resolution affirming the expediency thereof; and the council may by the resolution fix the salary to be paid to the Police Magistrate; but no Police

Magistrate appointed before the 29th day of March, 1873, in a town with a less population than five thousand, shall be affected by this section. R. S. O. 1877, c. 72 s. 2, (1, 2); 50 V. c. 29, s. 17.

4.—(1) The council of a town with a population of less than five thousand inhabitants in which a salaried Police Magistrate has been appointed may, by the vote of two-thirds of all the members of the council, pass a by-law to reduce the salary of the Police Magistrate, to a sum less than that fixed by the council in the first instance, and may name a sum in the by-law at which the Council desires the salary thereafter to be fixed. Reduction of salary.

(2) Upon being furnished with a duly certified copy of the by-law and with satisfactory proof that the same was passed by a two-thirds vote of all the members of the council, and after notice to the magistrate, the Lieutenant-Governor in Council may fix such salary to be paid after a date to be named in the Order, either at the sum named in the by-law or at such other sum, not exceeding the sum fixed in the first instance, as to the Lieutenant-Governor in Council may seem meet and proper in view of all the circumstances of the case.

(3) The sum so fixed by the Order in Council shall thereafter be paid as the salary of the Police Magistrate in lieu of that fixed in the first instance as aforesaid. 48 V. c. 39, s. 10.

5. The Lieutenant-Governor in Council may, at all times, notwithstanding anything in this Act contained, appoint a Police Magistrate without salary for any town. R. S. O. 1877, c. 72, s. 2 (3). Appointment without salary.

6. No Justice of the Peace shall admit to bail, or discharge a prisoner, or adjudicate upon, or otherwise act in any case for a town or city where there is a Police Magistrate, except at the Court of General Sessions of the Peace, or in the case of the illness, absence, or at the request of the Police Magistrate. R. S. O. 1877, c. 72, s. 6. When there is a Police Magistrate, other Justices of the Peace not to act.

7. Nothing herein contained shall interfere with the jurisdiction of Justices of the Peace for the county in which a town having no Police Magistrate is situate, over offences committed in the town. R. S. O. 1877, c. 72, s. 9. Jurisdiction of County Justices in certain towns.

IN COUNTIES.

8.—(1) Where the county council of a county passes a resolution affirming the expediency of the appointment of a salaried Police Magistrate for the county, the Lieutenant-Governor may make such an appointment, the salary to be paid by the county. 48 V. c. 17, s. 1. When Police Magistrate may be appointed with salary.

(2) The salary to be paid to the Police Magistrate shall not be less than \$600; every such Police Magistrate shall be also entitled to be repaid by the county his reasonable and necessary travelling expenses while attending to his duties. The County Council may at any time by resolution assign to the Police Magistrate a larger salary than is hereinbefore named. 48 V. c. 17, s. 2.

Lt.-Governor may appoint police magistrates without salary.

9. Where the Lieutenant-Governor in Council is of opinion that the due administration of justice requires the temporary appointment of a Police Magistrate for a county or district, or any part of a county or district, the Lieutenant-Governor in Council may appoint a Police Magistrate accordingly; the appointee shall hold office without salary; but the said provision as to salary shall not apply to any case in which the Legislature, or the County Council, or other Municipal Council, shall see fit to appropriate or pay a salary to the Police Magistrate. 41 V. c. 4, s. 9 (1); 50 V. c. 8, Sched.

More police magistrates than one may be appointed for a county in which Temperance Acts in force.

R. S. C. c. 106.

10.—(1) The Lieutenant-Governor may appoint more Police Magistrates than one for any county or union of counties or district or part of a district in which *The Canada Temperance Act*, or a like Act, is in force. Every such Magistrate shall hold office during pleasure, but shall cease to be such Police Magistrate in case, and from the time that, the said Act, or any new Act which may be substituted therefor, ceases to be in force in the county, or union of counties, or district or part of district aforesaid.

Salary.

(2) The Lieutenant-Governor in Council may determine the salary (if any) to be paid to a county or district Police Magistrate; the same not to exceed the salary provided for by section 8 of this Act, and may also allow the travelling expenses of the said Magistrate at some amount not less than \$150 and not more than \$300.

(3) Only one Police Magistrate appointed for any county or district, shall receive a salary under authority of the Lieutenant-Governor in Council, but the municipal council of a county may grant a salary to any other Police Magistrate or Magistrates appointed for the county, such other Police Magistrate or Magistrates consenting thereto.

(4) Such salary and expenses of a county Police Magistrate shall be paid by the county quarterly. 50 V. c. 11, s. 1.

Jurisdiction.

11. The commission appointing a Police Magistrate for a county or district, may exclude any city or town which has a Police Magistrate, and otherwise a Police Magistrate appointed for a county or district shall have jurisdiction in the whole of the county or district, inclusive of every city or town therein, whether such city or town has or has not also a Police Magistrate of its own. 50 V. c. 11, s. 3.

12. Any Police Magistrate appointed under the preceding four sections shall have and exercise within the county or territory for which he is appointed all the powers, authorities, rights, privileges and jurisdiction by law appertaining to Police Magistrates appointed for cities, and shall be entitled to take the same fees as other Justices of the Peace. 48 V. c. 17, s. 3; 50 V. c. 11, s. 5.

Powers of
Police Magis-
trate.

13. No Justice of the Peace shall admit to bail or discharge a prisoner, or adjudicate upon or otherwise act until after judgment in any case prosecuted under the authority of any statute of Ontario where the initiatory proceedings were taken by or before a Police Magistrate, except at the General Sessions of the Peace, or in the case of the illness, or absence, or at the request, of the Police Magistrate. 41 V. c. 4, s. 9 (3).

Proceedings
had before P.
Magistrate not
to be inter-
fered with by
another J. P.

14. Nothing in this Act contained shall be construed to interfere with the jurisdiction of Justices of the Peace in cases in which the initiatory proceedings are not taken by the Police Magistrate; nor shall anything in this Act contained be construed to prevent other Justices of the Peace from acting with the Police Magistrate, at the request of the Police Magistrate. 41 V. c. 4, s. 9 (6).

Jurisdiction
of Justices
where proceed-
ings not begun
by P. Magis-
trate.

15. It shall not be necessary for any county Police Magistrate to be actually resident within the county or district for which, or for part of which, he is appointed. 41 V. c. 4, s. 9 (7).

Residence of
county Police
Magistrates.

16. A Police Magistrate for a county, or part of a county, may sit or hold his Courts within a town separated from the county, or a city situate within the limits of the county for judicial purposes, whether such city or town has a Police Magistrate or not, and may in such town or city hear complaints, and dispose thereof as Police Magistrate in respect of all matters arising within the county, or the part of the county for which he is appointed, and do all acts, matters and things in the discharge of the duties and powers of his office as fully as when sitting or holding Court in any other part of the county for which he is appointed. 50 V. c. 11, s. 7.

Place of hold-
ing Court.

17. The County Council shall provide a proper office, together with fuel, light and furniture, for every county Police Magistrate. 48 V. c. 17, s. 4, *part*; 50 V. c. 11, s. 5.

Office of
Police
Magistrate.

GENERAL PROVISIONS.

18. Every Police Magistrate shall, *ex-officio*, be a Justice of the Peace for the whole County or Union of Counties or District, for which, or for part of which, he has been appointed. 41 V. c. 4, s. 9 (2); 50 V. c. 8, Sched.

Police
Magistrate
ex officio a
J. P.

Use of Court room.

Proviso.

19. Every Police Magistrate shall, whenever he deems there is occasion therefor, have a right to use any court room or town hall belonging to the county or to any municipality therein (which has no Police Magistrate of its own), for the hearing of cases brought before him; provided the magistrate in so using the court room, or town hall, shall not interfere with the ordinary use of the court rooms for the other Courts for which they are required, or with the use of the town hall for the purposes for which the same was built. 48 V. c. 17, s. 4, *part*; 50 V. c. 11, s. 5.

Provision in case of absence of Police Magistrate.

20. In case of the absence, or illness, or at the request of a Police Magistrate, any two or more Justices of the Peace may act in his place in any matter within the jurisdiction of the Police Magistrate, and the said Justices of the Peace, or a majority of them shall in such case have all the powers which by any statute are given to the Police Magistrate; but this section shall not be construed to prevent one Justice of the Peace from acting for the Police Magistrate, wherever by law one Justice of the Peace has jurisdiction in that behalf. 41 V. c. 4, s. 7.

Police Magistrate may sit alone with powers of two Justices.

21. A Police Magistrate sitting at a Police Court, or other place appointed in that behalf, shall have full power to do alone whatever is authorized, by any statute in force in this Province relating to matters within the legislative authority of the Legislature of the Province, to be done by two or more Justices of the Peace; and every Police Magistrate shall have such power while acting anywhere within the county for which he is *ex officio* a Justice of the Peace. R. S. O. 1877, c. 72, s. 7; 41 V. c. 4, s. 9, (4).

Oath in lieu of oath of office.

22. The following oath may be taken by any Police Magistrate in lieu of the oath of office heretofore taken by Justices of the Peace, and the same may be taken before any Justice of the Peace or before any person appointed by the Lieutenant-Governor to administer oaths and declarations, or before the Clerk of the Peace of the county or district in which the Police Magistrate is to act.

I, A. B., of the of in the County of do swear that I will well and truly serve Our Sovereign Lady Queen Victoria, in the office of Police Magistrate, and I will do right to all manner of people after the laws and usages of this Province, without fear or favour, affection or ill will. So help me God.

41 V. c. 4, s. 8 (2), and Sched. A.

Oath to be sent to Clerk of the Peace.

23. Every oath of office or allegiance taken by a Police Magistrate shall forthwith after the same is taken be transmitted or delivered by the Police Magistrate to the Clerk of the Peace of the county or district within which the Police Magistrate is to act, and shall be filed in the office of the Clerk of the Peace. 41 V. c. 4, s. 8 (3 *part*).

24. No Police Magistrate shall be required to have any property qualification, or to take any further oath to enable him to act as a Justice of the Peace. R. S. O. 1877, c. 72, s. 5. Property qualification not requisite.

25. Every Police Magistrate shall be entitled to receive the same fees and emoluments as are paid to Justices of the Peace; and in case a Police Magistrate is paid by a fixed salary, the said fees and emoluments, whether received by him as Police Magistrate or as a Justice of the Peace, shall be paid to the municipality and form part of its funds; but this section shall not authorize the imposition of such fees by a Police Magistrate, who is paid by fixed salary, upon any Inspector of Licenses or upon any Provincial officer appointed under *The Liquor License Act* in or in respect of any case or complaint prosecuted by him or them under the said License Act or under *The Canada Temperance Act*, or upon any person who, by the written authority of the Attorney-General of this Province, prosecutes any complaint under either of the said Acts. 46 V. c. 18, s. 433 (3); 50 V. c. 11, s. 2; c. 29, s. 17. Fees of Police Magistrate.
Rev. Stat. c. 194.
R. S. C. c. 106.

26. No Police Magistrate need act in any case arising outside of the limits of the city, town or place for which he is Police Magistrate, unless he sees fit so to do. 46 V. c. 18, s. 433 (5). When Police Magistrate need not act

27. No Police Magistrate, and no partner or clerk of any Police Magistrate, shall act as agent, solicitor or counsel in any cause, matter, prosecution, or proceeding of a criminal nature; nor shall such Police Magistrate, partner or clerk act as aforesaid in any case which by law may be investigated or tried before a Magistrate or Justice of the Peace. 49 V. c. 16, s. 19. Police Magistrates not to act for offenders or criminals.

28. No municipal council shall have power to reduce the salary of a Police Magistrate without the sanction of the Lieutenant-Governor in Council. 46 V. c. 18, s. 433 (4). Reduction of Police Magistrate's salary.

29.—(1) No action shall lie against a Stipendiary or Police Magistrate for or by reason of any process issued, or conviction made by, or any proceedings of any kind taken before him alone, or authorized by him, in good faith, in any case which, by the law applicable thereto, was not cognizable by such Police Magistrate, or not by him sitting alone, or should have been heard by two justices of the peace, or by the mayor of a city or town within the district, county, union of counties, or part of a district or county or union of counties, for which the Stipendiary or Police Magistrate was appointed. Action not to lie against stipendiary or police magistrates, etc., for certain mistakes as to jurisdiction under Canada Temperance Act.

(2) This section shall not prevent an action from being maintained where and so far as the action would be maintainable against the mayor or justices of the peace if the process

had been issued or conviction made by, or proceedings taken before, or authority given by him or them, in a matter in which he or they had jurisdiction.

(3) No action shall lie against a constable or peace officer for anything done by him under and by virtue of process issued or authority given, as in sub-section 1 mentioned, unless the action would be maintainable if the process had been issued or authority given by a person or persons legally qualified to issue the process or give the authority.

(4) This section shall apply to pending actions, and also to actions (whether brought before or after this Act) for anything done before the passing of this Act, as well as to actions in respect of acts which may hereafter be done. 50 V. c. 11, s. 9.

30. Except in cases of urgent necessity no attendance of the Police Magistrate is required at the Police Office on Sundays or other holidays, or on any day set apart by the Municipal Council as a civic holiday. 46 V. c. 18, s. 433 (2); 50 V. c. 29, s. 17.

CHAPTER 73.

An Act to protect Justices of the Peace and others from Vexatious Actions.

MALICE, ETC., WHEN TO BE ALLEGED IN ACTIONS AGAINST JUSTICES, ETC., ss. 1, 2.	Where Act done under Statute held to be <i>ultra vires</i> , s. 8.
APPLICATION OF ACT , s. 1 (2).	DEFECTS IN FORM NOT TO PREVENT JUSTICES FROM CLAIMING PRO- TECTION, s. 9.
WHERE CONVICTION BY ONE JUSTICE AND WARRANT THEREON BY AN- OTHER, ACTION TO BE AGAINST CONVICTING JUSTICE, s. 3.	CONDITIONS ON QUASHING CONVIC- TION , s. 10.
NO ACTION TO LIE — Before conviction is quashed, 4. Where warrant not followed by conviction, etc., s. 5. Where Justice acts under order of a Judge, s. 6. After conviction affirmed on ap- peal, s. 7.	ACTION WHERE OFFENCE NOT PRO- PERLY DESCRIBED IN INFORM- ATION OR WARRANT , s. 11. SETTING PROCEEDINGS ASIDE , s. 12. LIMITATION OF ACTIONS , s. 13. PROCEDURE IN ACTIONS , ss. 14-23. PROTECTION OF PERSONS OBEYING WRIT OF MANDAMUS, s. 24.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) In case an action is brought against a Police Magistrate or other Justice of the Peace for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, or against any other officer or person fulfilling any public duty, for anything by him done in the performance of such public duty, whether such duties arise out of the Common Law or are imposed by any Act either of the Imperial or Dominion Parliament, or of the Legislature of this Province, it shall be expressly alleged in the statement of claim that the act was done maliciously and without reasonable and probable cause; and if at the trial of the action, the plaintiff fails to prove such allegation, he shall be non-suited, or a verdict or judgment shall be given for the defendant. R. S. O. 1877, c. 73, s. 1; 50 V. c. 11, s. 8.

In actions for things done within the jurisdiction of a Justice of the Peace or by other officers, malice and want of probable cause must be alleged and proved.

(2) So far as applicable, the whole of this Act shall apply for the protection of every officer and person mentioned in the preceding sub-section, for anything done in the execution of his office as therein expressed. R. S. O. 1877, c. 73, s. 20.

Application of Act.

2. For any act done by a Justice of the Peace in a matter in which by law he has not jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under a conviction or order made or warrant issued by the Justice in such matter, any person injured thereby may maintain an action against the Justice in the same case as he might have done before the passing of this Act, without making any allegation in his statement of claim that the act complained of was done maliciously and without reasonable and probable cause. R. S. O. 1877, c. 73, s. 2.

Action when jurisdiction exceeded may be without allegation.

3. Where a conviction or order has been made by a Justice of the Peace, and a warrant of distress or of commitment has been granted thereon by some other Justice of the Peace, *bona fide* and without collusion, no action shall be brought against the Justice who granted the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the Justice who made the same, but the action (if any is brought) shall be against the Justice who made the conviction or order. R. S. O. 1877, c. 73, s. 3.

Justice of the Peace who grants a warrant under a conviction or order made by another Justice of the Peace, may not be liable for the same.

4. No action as mentioned in this Act shall be brought for anything done under a conviction or order until the conviction or order has been quashed, either upon appeal or upon application to the High Court; nor shall any such action be brought for anything done under any warrant issued by such Justice to procure the appearance of the party, and which has been followed by a conviction or order in the same matter, until the conviction or order has been quashed as aforesaid. R. S. O. 1877, c. 73, s. 4; 41 V. c. 8, s. 10.

No action for anything done under a conviction or order until the same is quashed.

No action for anything done under a warrant to compel appearance, if summons is previously served and not obeyed.

5. If the last mentioned warrant has not been followed by a conviction or order, or in case it is a warrant upon an information for an alleged indictable offence, if a summons was issued previously to the warrant, and the summons was served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of the summons, in such case no such action shall be maintained against the Justice for anything done under the warrant. R. S. O. 1877, c. 73, s. 5.

If a justice refuses to do any act, the High Court or the County Judge may order him to do it, and no action shall then lie against him for doing it.

6. In all cases where a Justice of the Peace refuses to do any act relating to the duties of his office as such Justice, the party requiring the act to be done may, upon an affidavit of the facts, apply to the High Court or to the Judge of the County Court of the county or united counties in which the Justice resides, for an order *nisi* calling upon the Justice, and also the party to be affected by the act, to shew cause why the act should not be done; and if, after due service of the order, good cause is not shewn against it, the Court may make the same absolute, with or without or upon payment of costs, as may seem meet, and the Justice, upon being served with the order absolute, shall obey the same, and shall do the act required; and no action or proceeding shall be commenced or prosecuted against the Justice for having obeyed the order and done the act required as aforesaid. R. S. O. 1877, c. 73, s. 6.

After conviction, etc., confirmed on appeal, no action to lie for an act done under a warrant.

7. In case a Justice of the Peace has granted a warrant of distress or a warrant of commitment upon any conviction or order which, either before or after the granting of the warrant has been confirmed upon appeal, no action shall be brought against the Justice by reason of any defect in the conviction or order for anything done under the warrant. R. S. O. 1877, c. 73, s. 7.

Protection to those acting under statutes *ultra vires*.

8.—(1) No action shall be brought against any Judge, Stipendiary or Police Magistrate, Justice of the Peace, or officer, for any act or thing by him done under the supposed authority of a statute or statutory provision of the Province, or of the Dominion of Canada, which statute or statutory provision was beyond the legislative jurisdiction of the Legislature of the Province or of the Parliament of Canada, as the case may be, provided the action would not lie against him, if the statute or statutory provision had been within the legislative jurisdiction of the Parliament or Legislature, which assumed to enact the same.

Cases wherein above does not protect.

(2) Where, notwithstanding the above sub-section, an action is sustainable against a Judge, Stipendiary or Police Magistrate, Justice of the Peace, or officer, for any act or thing by

him done under the authority of a statute, or statutory provision, as in the said sub-section, the action shall only be sustainable subject to the like provisions as the action would be subject to if the statute or statutory provision were valid; and the like damages, and no more, shall be recoverable in such action as under the like circumstances could have been recovered if the statute or statutory provision had been valid. 41 V. c. 4, s. 2, (1, 2)

9. No defect in form, in an information or warrant taken before or signed by a Justice of the Peace, shall prevent the Justice from claiming the benefit and protection of this Act if the Court before which, or the Judge before whom, the action is tried shall be of opinion that the Justice acted in good faith, and that the informant or complainant intended, by the facts stated to the Justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would be one within the jurisdiction of the Justice, and in such case the informant or complainant shall be liable to prosecution, as if the information had charged in proper form the commission of the offence so intended to be charged. 41 V. c. 4, s. 3.

Defects in form of informations and warrants not to prevent Justices from claiming protection hereunder.

10. Where an order is made by the High Court quashing a summary conviction the Court may, if it thinks fit so to do, provide that no action for a trespass shall be brought against the Justice of the Peace who made the conviction. 41 V. c. 4, s. 4.

Condition on quashing summary conviction.

11. No person who has in good faith as aforesaid intended to charge another person, who shall hereafter be arrested by the direction of the person so charging the said offence, under a warrant signed by a Justice of the Peace, with the commission of any offence, shall be liable to be sued for a trespass, in consequence only of the information sworn before a Justice of the Peace, or the warrant signed by him not containing a proper description of the offence. 41 V. c. 4, s. 5.

Actions when information does not contain a proper description of the offence.

12. In case an action is brought, where by this Act it is enacted that no action shall be brought under the particular circumstances, a Judge of the Court in which the action is pending shall, upon application of the defendant, and upon an affidavit of facts, set aside the proceedings in the action, with or without costs, as to him seems meet. R. S. O. 1877, c. 73, s. 8.

If any action is brought contrary to this Act, Judge may set aside the proceedings.

13. No action shall be brought against a Justice of the Peace for anything done by him in the execution of his office unless the same is commenced within six months next after the act complained of was committed. R. S. O. 1877, c. 73, s. 9.

Limitation of actions.

Notice of
action to be
given.

14. No such action shall be commenced against a Justice of the Peace until one month at least after a notice in writing of the intended action has been delivered to him, or left for him at his usual place of abode, by the party intending to commence the action, or by his solicitor or agent, in which notice the cause of action, and the Court in which the same is intended to be brought, shall be clearly and explicitly stated; and upon the back thereof shall be endorsed the name and place of abode of the party intending to sue, and also the name and place of abode or of business of his solicitor or agent, if the notice is served by the solicitor or agent. R. S. O. 1877, c. 73, s. 10.

Place of trial.

Defendant
may plead
not guilty
by statute.

15. Every such action shall be tried in the County where the act complained of was committed, and in actions in County or Division Courts, the action shall be brought in the County or Division within which the act complained of was committed, or in which the defendant resides, and the defendant may plead not guilty by statute, and may, at the trial of the action, give any special matter of defence, excuse or justification in evidence. R. S. O. 1877, c. 73, s. 11.

Action not to
be brought in
County or Di-
vision Court,
if the Justice
objects.

16. No action shall be brought in any County or Division Court against a Justice of the Peace for anything done by him in the execution of his office if the Justice objects thereto; and if, within six days after being served with a notice of the action, the Justice, or his solicitor or agent, gives a written notice to the plaintiff in the intended action that he objects to being sued in such County or Division Court for such cause of action, no proceedings shall afterwards be had in such County or Division Court in the action, but it shall not be necessary to give another notice of action in order to sue the Justice in any other Court. R. S. O. 1877, c. 73, s. 12.

Tender and
payment of
money into
Court by
Justice.

17. In every such case, after notice of action has been given as aforesaid, and before an action has been commenced, the Justice to whom the notice has been given may tender to the party complaining, or to his solicitor or agent, such sum of money as he thinks fit as amends for the injury complained of in the notice; and after the action has been commenced, and at any time before issue joined therein, the defendant, if he has not made a tender, or in addition to the tender, may pay into Court such sum of money as he thinks fit, and the tender and payment of money into Court, or either of them, may afterwards be given in evidence by the defendant at the trial under such defence of not guilty. R. S. O. 1877 c. 73, s. 13.

If Judge or
jury think
plaintiff en-
titled to no
greater dama-
ges, verdict
to be for
defendant.

18. If the jury (or the Judge, if the case be tried without a jury) at the trial be of opinion that the plaintiff is not entitled to damages beyond the sum so tendered or paid into Court, a verdict or judgment shall be given for the defendant, and the plaintiff shall not be at liberty to elect to be nonsuited, and

the sum of money, if any, so paid into Court, or so much thereof as is sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of Court to him, and the residue, if any, shall be paid to the plaintiff. R. S. O. 1877, c. 73, s. 14.

19. In case money is paid into Court in such action, and the plaintiff elects to accept the same in satisfaction of his damages in the action, he may obtain from a Judge of the Court in which the action has been brought, an order that the money shall be paid out of Court to him, and that the defendant shall pay him his costs to be taxed, and thereupon the said action shall be determined, and the order shall be a bar to any other action for the same cause. R. S. O. 1877, c. 73, s. 15. ⁶³

If the plaintiff accepts the money.

20. If at the trial of the action the plaintiff does not prove,

If plaintiff fails to prove certain particulars, he shall be non-suited or verdict given for the defendant.

1. That the action was brought within the time hereinbefore limited in that behalf; and

2. That notice as aforesaid was given one month before the action was commenced; and

3. The cause of action stated in the notice; and

4. That the cause of action arose in the county or district, the County Town of which is named in the statement of claim as the place of trial; and

5. Where the plaintiff sues in a County, District or Division Court, that the cause of action arose within the county, district or united counties for which such Court is holden ;

then, and in any such case, the plaintiff shall be nonsuited, or a verdict shall be given for the defendant. R. S. O. 1877, c. 73, s. 16.

21. In case the plaintiff in such action is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, and it is proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and with respect to the imprisonment that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non payment of the sum he was so ordered to pay, he shall not be entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of three cents as damages for the imprisonment, or any costs of suit whatsoever. R. S. O. 1877, c. 73, s. 17.

Damages limited in certain cases.

If plaintiff recovers verdict, etc., to be entitled to costs. **22.** If the plaintiff in such action recovers a verdict or the defendant allows judgment to pass against him by default, the plaintiff shall be entitled to costs in the same manner as if this Act had not been passed. R. S. O. 1877, c. 73, s. 18.

If malice and want of probable cause be alleged and plaintiff recovers, he shall be entitled to full costs. **23.** If in any case it is alleged in the statement of claim or in the summons and particulars if the plaintiff sues in the Division Court, that the act complained of was done maliciously and without reasonable or probable cause, the plaintiff, if he recovers a verdict for any damages, or if the defendant allows judgment to pass against him by default, shall be entitled to his costs to be taxed as between solicitor and client; and in every action against a Justice of the Peace for anything done by him in the execution of his office, the defendant, if he obtains judgment, shall be entitled to his full cost in that behalf, to be taxed as between solicitor and client. R. S. O. 1877, c. 73, s. 19.

Persons obeying writs of *mandamus*, indemnified. **24.** No action, or other proceeding shall be commenced or prosecuted against any person or persons whomsoever, for or by reason of anything done in obedience to a peremptory writ of *mandamus* issued by any Court having authority to issue writs of *mandamus*. R. S. O. 1877, c. 52, s. 29.

CHAPTER 74.

An Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions.

PROCEDURE BEFORE JUSTICES, ss. 1-3.
Except in appeals, to be according to the practice under the Acts of Canada, from time to time in force, ss. 1, 2.
Costs, s. 2.

APPEALS FROM JUSTICES TO GENERAL SESSIONS, ss. 4-8.
IN CASE OF AMENDMENT OF ACTS OF CANADA, WHEN AMENDED ACTS TO APPLY, s. 9.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PROCEDURE BEFORE JUSTICES.

Procedure before Justices, etc., to be the same as under Dominion Acts respecting procedure in summary convictions. **1.—(1)** Where a penalty or punishment is imposed under the authority of any statute of the Province of Ontario, or of any other statute or law in force in Ontario, and relating to matters within the legislative authority of the Legislature of the Province, and is recoverable before, or

may be inflicted by, a Justice of the Peace, or a Police or Stipendiary Magistrate, the like proceedings, and no other, shall and may be had for recovering the penalty, compelling the attendance of the parties or witnesses, hearing the complaint, and for the conduct of the Court, the taking and estreating of recognizances, and the infliction of the punishment, and otherwise in respect thereof, and the convicting Justice, or Police or Stipendiary Magistrate, shall perform the like duties in respect thereto, and in respect of any conviction or order made by him or them by virtue of such statute, as, under the statutes of the Dominion of Canada then in force, might be had and should be performed, if the penalty or punishment had been imposed by a statute of Canada unless in any Act hereafter passed imposing the penalty or punishment, it is otherwise declared.

(2) Nothing in this section contained shall confer upon any person who considers himself aggrieved by a conviction or order made by any Justice, or Police or Stipendiary Magistrate, the right of appealing to the General Sessions of the Peace, or shall affect procedure on appeals. R. S. O. 1877, c. 74, s. 1. Procedure on appeals not affected.

2.—(1) In all cases of summary conviction, or of orders made by a Justice of the Peace, Police Magistrate, or Stipendiary Magistrate under this Act, the Justice, Police Magistrate or Stipendiary Magistrate may, in his discretion, award and order, in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant, such costs as to the Justice, Police Magistrate or Stipendiary Magistrate seems reasonable in that behalf, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before Justices of the Peace. Magistrate may order defendant to pay costs.

(2) In cases where the Justice or Police Magistrate or Stipendiary Magistrate, instead of convicting or making any order, dismisses the information or complaint, he may, in his discretion, in and by the order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the Justice, or Police Magistrate or Stipendiary Magistrate, seem reasonable and are consistent with the law. Magistrate may order prosecutor to pay costs.

(3) The sums so allowed for costs shall be specified in the conviction or order, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by conviction or order is recovered. Recovery of costs with penalty.

(4) Where there is no penalty to be recovered, the costs shall be recoverable only by distress and sale of the goods and chattels of the party. 49 V. c. 16, s. 20. Recovery of costs where no penalty.

Convictions and recognizances to be transmitted to Clerk of the Peace.

3. The Clerk of the Peace for the county shall be the proper officer to whom shall be transmitted convictions to be filed, and recognizances in respect of which proceedings require to be taken at the General Sessions of the Peace. R. S. O. 1877, c. 74, s. 2.

APPEALS TO GENERAL SESSIONS.

Appeal from convictions to the General Sessions.

4. Any party who considers himself aggrieved by a conviction or order made by a Justice of the Peace, or by a Police or Stipendiary Magistrate, under the authority of any statute in force in Ontario, and relating to matters within the legislative authority of the Legislature of Ontario, may, unless it is otherwise provided by the particular Act under which the conviction or order is made, appeal therefrom to the General Sessions of the Peace. R. S. O. 1877, c. 74, s. 3.

Practice and proceedings on appeal.

5. In case an appeal lies to the Court of General Sessions of the Peace from a conviction or order made, as aforesaid, under the authority of a statute of the Legislature of Ontario or other statute or law in force in the Province of Ontario, and relating to matters within the legislative authority of the Legislature, the practice and proceedings on the appeal and preliminary thereto, and otherwise in respect thereof, save as is herein otherwise expressed, shall be the same as the practice and proceedings under the statutes of the Dominion of Canada then in force, on an appeal to the General Sessions of the Peace from a conviction before a Justice of the Peace, made under the authority of a statute of Canada; except that either of the parties to the appeal may call witnesses and adduce evidence in addition to the witnesses called, and evidence adduced at the original hearing. R. S. O. 1877, c. 74, s. 4.

evidence on appeal.

Notice of appeal.

6.—(1) Where an appeal lies to the General Sessions of the Peace from a conviction or order made by a Justice of the Peace, or by a Police or Stipendiary Magistrate, under the authority of any statute in force in Ontario, and relating to matters within the legislative authority of the Legislature of Ontario, the notice of appeal may be given within ten days after the conviction or order.

(2) If the conviction or order is made more than fourteen days before the sittings of the General Sessions, the appeal shall be made to the then next sittings of the Court, but if the conviction or order be made within fourteen days of the sittings of the Court, then to the second sittings next after the conviction of order. 48 V. c. 19, s. 1.

7. If upon the trial at the General Sessions of the Peace of an appeal from a decision of a Justice of the Peace upon any matter within the legislative authority of the Legislature of Ontario, it is proved upon the oath or affirmation of any credible witness that a person whose deposition has been taken upon the original hearing, is dead, or is so ill as not to be able to travel, or is absent from Ontario, or if it is proved in like manner that after diligent inquiry such person cannot be found to be served with a subpœna, and if it is also proved that such deposition was taken in presence of the person accused, and that he, his counsel or solicitor, had a full opportunity of cross-examining the witness, and if the deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be received as evidence in the prosecution without further proof thereof, unless it is proved that the deposition was not in fact signed by the Justice purporting to have signed the same. R. S. O. 1877, c. 74, s. 5.

At General Sessions of the Peace, on appeal, the original depositions to be evidence in certain cases.

8. An appellant may abandon his appeal by giving the opposite party notice of his intention in writing six days before the Sessions appealed to; and thereupon the Justice, or Police or Stipendiary Magistrate, may tax the additional costs if any, of the respondent, and add the same to the original costs, and proceed on the original conviction, or order, in the same manner as if there had been no appeal thereon. R. S. O. 1877, c. 74, s. 6.

Abandonment of appeal; costs.

WHEN AMENDED ACTS OF CANADA TO APPLY.

9. If the Parliament of Canada amends any statute, the operation whereof is extended by virtue of this Act, no such amendment shall have any force in Ontario, by virtue of this Act, until after the termination of the Session of the Legislature of Ontario held next after the passing of the amending statute. R. S. O. 1877, c. 74, s. 7.

When amendments of Dominion Acts shall take effect under this Act.

CHAPTER 75.

An Act respecting the procedure on Appeals to the Judge of a County Court from Summary Convictions.

INTERPRETATION, s. 1.	JUDGE AFFIRMING OR QUASHING CONVICTION, ss. 8-12.
PROCEDURE WHERE APPEAL LIES TO COUNTY JUDGE, ss. 2-7 :	APPEALS TO BE ON THE MERITS NOTWITHSTANDING DEFECTS IN FORM, s. 13.
Giving of security and transmission of papers, etc., to Clerk of County Court, s. 3.	DEALING WITH MONEY DEPOSITED ON SECURITY, s. 14.
Liberation of prisoner on security being given, ss. 4, 5.	CONVICTIONS NOT TO BE QUASHED FOR DEFECT OF FORM, ss. 15, 16.
Summons to quash conviction, ss. 6, 7.	POWERS OF JUDGE, s. 17.
PROCEEDINGS ON ORDER OF COUNTY	FORMS, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

Interpretation :

1. Where the following words occur in this Act or in the schedules thereto they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :—

“Justice,”
“Justice of the Peace,”

1. “Justice” or “Justice of the Peace,” shall include a Stipendiary or Police Magistrate ;

“Conviction.”

2. “Conviction” shall include an order made by a Justice of the Peace ; and

“Person convicted.”

3. “Person convicted” shall include any person, against whom an order is made as aforesaid. R. S. O. 1877, c. 75, s. 1.

Appeals to be to the Judge of the County wherein conviction made.

2. Where, by any statute of Ontario, an appeal is given to the Judge of the County Court without a jury, from a summary conviction had or made before a Justice of the Peace, and no special provision is made therefor, the appeal shall be to the Judge of the County Court of the County in which the conviction is made, sitting in Chambers, and the proceedings thereon shall be as hereinafter provided. R. S. O. 1877, c. 75, s. 2.

Procedure.

3. In any of the following cases, namely :

First, appeal from conviction imposing money penalty, and security given by appellant.

Firstly. If the appeal is against a conviction whereby only a money penalty is imposed, then, in case the person convicted deposits with the convicting Justice the amount of the penalty and the costs and a further sum of \$10, or with two sufficient sureties enters into a recognizance (Form 1) before a Justice of the Peace, in a sum double the amount of the penalty and the

costs, conditioned duly to prosecute the appeal, and to abide by and perform the order of the Judge thereupon, and to pay such costs as he may order ;

Secondly. If the appeal is against a conviction whereby imprisonment is imposed, then, in case the person convicted, with two sufficient sureties, enters into a recognizance (Form 2), before a Justice of the Peace in a sum not less than \$100 nor more than \$200, as the convicting Justice directs, and in double the amount of the penalty and costs which the person convicted has been ordered to pay, conditioned as aforesaid, and also containing the further condition that the person convicted will surrender himself if the conviction is affirmed ;

Appeal where imprisonment imposed, and security given by appellant.

Thirdly. If the person convicted is in custody for non-payment of a fine and costs, or in consequence of imprisonment being imposed as aforesaid, and fails to make the required deposit, or to enter into a recognizance, as hereinbefore provided, but deposits with the said Justice the sum of \$10 ;

Appeal when in custody and security given by appellant.

the said Justice shall, at the request of the person convicted, made within five days after the date of the conviction, forthwith transmit to the Clerk of the County Court, by registered letter post-paid, all the proceedings and evidence ; which proceedings and evidence, with a duplicate of any order made by the Judge as hereinafter provided, shall, immediately after the matter has been finally disposed of by the Judge, be transmitted by the Clerk of the County Court, in manner aforesaid, to the Clerk of the Peace, to be by him kept with the records of convictions. R. S. O. 1877, c. 75, s. 3.

In above cases the Justice to transmit proceedings, &c.

4. In any of the cases of the classes firstly and secondly above mentioned, the convicting Justice, upon the recognizance being given or the deposit made, as the case may require, shall stay all proceedings upon the conviction, and if the person convicted is in custody the Justice shall issue his warrant (Form 3) to liberate such person. R. S. O. 1877, c. 75, s. 4.

In the first and second of above cases, Justice to stay proceedings and liberate prisoner.

5. In any of the cases thirdly above mentioned, the person appealing shall remain in custody while the appeal is pending, unless he is in custody for non-payment of a fine or costs, in which case the convicting Justice shall order his liberation upon his depositing (in addition to the said sum of \$10) the amount for the non-payment of which he is in custody. R. S. O. 1877, c. 75, s. 5.

Mode of liberation in the third case.

6.—(1) Within ten days after the date of the conviction, but not afterwards, unless it is made to appear to the Judge that the delay arose wholly from the fault of the convicting Justice, the Judge of the County Court, if he is of opinion from the evidence that the conviction may be erroneous, may grant a summons calling upon the County Crown Attorney and the prosecutor to shew cause why the conviction should not be quashed.

Summons to shew cause why conviction should not be quashed.

(2) Such summons shall not be granted in any case after the expiration of one month from the date of the conviction. R. S. O. 1877, c. 75, s. 6.

Proceedings
on return of
summons.

7. Upon the return of the summons the Judge upon hearing the parties may either affirm or quash the conviction, or, if he thinks fit, may hear the evidence of such other witnesses as may be produced before him, or the further evidence of any witness already examined, and may then make an order affirming, or amending and affirming, or quashing the conviction as he may think just, and may order the payment of costs and may fix the amount thereof. R. S. O. 1877, c. 75, s. 7.

Proceedings
after order
affirming or
quashing
conviction.

8. Upon the production of the Judge's order affirming, or amending and affirming the conviction, the Justice who has made the conviction shall, if the case is one in which a recognizance has not been given, issue his warrant for payment of such further sum for costs as the sum deposited with him is insufficient to pay; if the conviction is quashed, the Judge shall order a return of the money deposited, and shall have authority to order payment of such sum for costs as he may tax and allow, and unless the sum is paid by the complainant, the Justice shall issue his warrant to levy the costs. R. S. O. 1877, c. 75, s. 8.

The case of
conviction and
penalty of
imprisonment
or conviction
affirmed,
or appeal not
prosecuted.

9.—(1) If by the conviction it is adjudged that the person convicted should be imprisoned, and the conviction is affirmed, or amended and affirmed, or the person convicted fails duly to prosecute the appeal, the Judge shall issue his warrant (Form 4) for the commitment to the proper gaol or other place of imprisonment of the person convicted, and unless such person, within one week thereafter, surrenders himself into the custody of the constable or other officer entrusted with the execution of the warrant, the condition of the recognizance shall be deemed broken, and the recognizance forfeited; and upon proof of default being made by affidavit of the officer or otherwise, the Judge may certify (Form 5) the default on the back of the recognizance, and shall thereupon transmit the recognizance to the Clerk of the Peace.

(2) The recognizance shall be thereafter proceeded upon at the General Sessions of the Peace in the same manner as a recognizance taken upon an appeal to the Sessions from a summary conviction may be proceeded upon; and the certificate shall be deemed sufficient *prima facie* evidence of the default of the defendant; but such proceedings shall not relieve the person convicted from undergoing the term of imprisonment to which he was sentenced; and the warrant of the Judge issued in that behalf, or any new warrant issued by him, may be executed in any part of Ontario in the same manner and subject to the like conditions as a warrant of a Justice of the Peace for the apprehension of an offender. R. S. O. 1877, c. 75, s. 9.

10. If by the conviction only a money penalty is imposed, the Judge, upon being satisfied by affidavit or otherwise that default has been made upon a recognizance given on an appeal in such a case, shall certify in like manner as is provided in the preceding section, and similar proceedings shall thereupon be had in respect of the recognizance. R. S. O. 1877, c. 75, s. 10.

The case of conviction and money penalty and default on recognizance.

11. In case it is proved to the satisfaction of the Judge that the person convicted had previously served a portion of his term, the Judge shall only issue his warrant for the commitment of the defendant for the residue of the term of imprisonment to which he was sentenced. The Judge may, if he thinks fit, transmit his warrant to the convicting Justice in order that he may place the same in the hands of a constable for execution. R. S. O. 1877, c. 75, s. 11.

Service of portion of term of imprisonment before order made on appeal.

Transmission of Judge's warrant.

12. A warrant issued under this Act may be directed in the same manner, and executed by the like officers, as a warrant of commitment upon a summary conviction made under a statute of the Parliament of Canada. R. S. O. 1877, c. 75, s. 12.

Warrants, direction and execution of.

13. In all cases of appeal to a County Court Judge from a summary conviction had before a Justice, the Judge to whom the appeal is made shall hear and determine the charge or complaint on which the conviction has been had, upon the merits, notwithstanding any defect of form or otherwise in the conviction; and if the person charged or complained against is found guilty, the conviction shall be affirmed, and the Judge shall amend the same if necessary. R. S. O. 1877, c. 75, s. 13.

Hearing on appeal to be on the merits.

Power to amend.

14. The Justice shall retain any moneys deposited with him as aforesaid for the period of six months, unless judgment is sooner given; and upon the judgment in appeal being given, or upon the expiration of six months from the day of the date of the conviction, the Justice shall pay over such moneys to the person or persons entitled thereto, in accordance with the judgment; and if the judgment in appeal is not delivered within six months from the day of the date of the conviction, the conviction shall stand, but the respondent shall not be entitled to any costs of the appeal; and in case imprisonment was adjudged by the conviction, the convicting Justice shall, or any other Justice may, issue his warrant for the commitment of the person convicted for any portion of the term which he has not served, and no further proceedings shall be taken on the appeal. R. S. O. 1877, c. 75, s. 14.

Dealing with money deposited.

The case of judgment not given within six months from conviction.

Judgment of imprisonment.

15. No conviction affirmed or amended and affirmed on appeal by the County Court Judge shall be quashed for want of form, or be removed by *certiorari* into the High Court; and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same. R. S. O. 1877, c. 75, s. 15.

No conviction affirmed to be invalid for want of form, or defect in warrant or commitment.

Whereas the said *A. B.* was on the _____ day of _____, A.D. _____, convicted before *C. D.* (and *E. F.*) one (or two) of Her Majesty's Justices of the Peace for the said County (or United Counties), for that (*stating the substance of the conviction*):

And whereas the said *A. B.* has undertaken to appeal against the said conviction to the Judge of the County Court of the County of _____ (or United Counties of _____):

Now the condition of the above (or within) recognizance is such that if the said *A. B.* shall, within one month from the date of the said conviction, obtain from the said Judge a summons calling upon the County Crown Attorney and the prosecutor to shew cause why the said conviction should not be quashed, and shall duly prosecute the said appeal, and shall abide by and duly perform the order of the Judge to be made upon the trial of such appeal, and shall pay such costs as the said Judge shall order, then the said recognizance to be void, and otherwise to remain in full force and virtue.

R. S. O. 1877, c. 75, Form 1.

FORM 2.

(Section 3.)

RECOGNIZANCE TO TRY THE APPEAL; TO BE TAKEN WHERE IMPRISONMENT IS IMPOSED.

Province of Ontario, }
County of }

Be it remembered, that (*proceed as in Form 1 to the end, and add the following additional condition*):—

And further, that if the said *A. B.*, in case the conviction is affirmed, or amended and affirmed, shall surrender himself into the custody of the constable or other officer entrusted with the execution of the warrant, within one week after the Judge shall issue his warrant for the commitment of the said *A. B.*, then the said recognizance to be void, and otherwise to remain in full force and virtue.

R. S. O. 1877, c. 75, Form 2.

FORM 3.

(Section 4.)

WARRANT OF DELIVERANCE WHERE DEFENDANT IS IN CUSTODY, AND ENTITLED TO BE LIBERATED.

Province of Ontario, }
County of }

To the Keeper of the Common Gaol of the County of _____ (or United Counties of _____ or to *E. F.*, the constable, having in his custody *A. B.*, hereinafter named, or as the case may require).

Whereas *A. B.* has before me (or us) one (or two) of Her Majesty's Justices of the Peace in and for the said County (or United Counties) of _____ entered into his own recognizance and found sufficient sureties to prose-

cute before the Judge of the County Court of the County of (or United Counties) , an appeal from a conviction had before me (or us) for that (stating the substance of the conviction), for which the said A. B. was committed to your custody :

These are therefore to command you, in Her Majesty's name, that if the said A. B. do remain in your custody for the said cause and for no other, you shall forthwith suffer him to go at large.

Given under my (or our) hand and seal (or hands and seals) this day of , in the year of our Lord , at , in the County (or United Counties) aforesaid.

J. S. { L. S. }

J. N. { L. S. }

R. S. O. 1877, c. 75, Form 3.

FORM 4.

(Section 9.)

WARRANT OF THE JUDGE OF THE COUNTY COURT WHEN IMPRISONMENT ADJUDGED AND CONVICTION AFFIRMED.

Province of Ontario, }
County of }

To all or any of the Constables and other Peace Officers in the said County, and to the Keeper of the Common Gaol of the said County.

Whereas A. B., late of (Labourer), was on or about the day of convicted before J. S., one of Her Majesty's Justices of the Peace in and for the said County, for that (stating the offence), and it was thereby adjudged (stating the judgment): And whereas the said A. B. has appealed against the said conviction to me, H. K., the Judge of the County Court of the said County of : and whereas, after hearing the said appeal, I, the said H. K., have affirmed the said conviction (or have amended the said conviction as follows: stating the amendment made, and have affirmed the said conviction as so amended):

These are therefore to command you, the said Constables or Peace Officers, or any of you, to take the said A. B., and him safely to convey to the Common Gaol at , and there to deliver him to the Keeper thereof, together with this warrant; And I do hereby command you, the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him (and to keep him at hard labour) for the space of , being the term (or being the portion yet unserved of the term) mentioned in the said conviction; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this day of in the year of our Lord , at , in the County of

H. K. { L. S. }

R. S. O. 1877, c. 75, Form 4.

FORM 5.

(Section 9.)

CERTIFICATE OF DEFAULT TO BE ENDORSED ON THE RECOGNIZANCE.

I hereby certify that the within-named *A. B.* has not surrendered himself (*stating according to the fact the default on account of which the recognizance is forfeited*) in accordance with the condition of the within recognizance, but therein has made default, by reason whereof the said recognizance is forfeited.

H. K.

R. S. O. 1877, c. 75, Form 5.

CHAPTER 76.

An Act respecting Returns of Convictions and Fines
by Justices of the Peace.

RETURNS OF CONVICTIONS :

When to be made, s. 1.

Form, s. 1.

What to contain, s. 2.

Penalty for neglect, s. 3.

LIMITATION OF ACTIONS, s. 4.

PUBLICATION OF RETURNS BY CLERKS
OF PEACE, s. 5.

RECORDING RETURNS, s. 6.

COPY TO BE SENT TO INSPECTOR OF
LEGAL OFFICES, s. 7.

OTHER RETURNS, s. 8.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

1. Every Justice of the Peace before whom any trial or hearing is had, under any law giving jurisdiction in the premises, and who convicts and imposes any fine, forfeiture, penalty, or damages, shall make a return thereof and of the receipt and application by him of the money received from the person convicted, in writing under the hand of such Justice, quarterly, on or before the second Tuesday in each of the months of March, June, September and December in each year, to the Clerk of the Peace (and in the case of convictions before two or more Justices, such Justices, being present and joining therein, shall make an immediate return thereof), in the following form :—

Return of
convictions,
at what times
and to whom
to be made.

have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes nonsuited or discontinues the action after issue joined, or if upon demurrer, or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs of suit as between solicitor and client, and shall have the like remedy for the same as a defendant has by law in other cases. R. S. O. 1877, c. 76, s. 4.

5. The Clerk of the Peace to whom such returns are made shall, within two weeks after the times hereby limited for the making of the returns, cause the same to be published in one public newspaper in the county, or district, or if there is no such newspaper, then in a newspaper of an adjoining county, or district, and shall also within the said period fix up in the Court House, and also in a conspicuous place in the office of the Clerk of the Peace, for public inspection, a schedule of the returns so made by the Justices; and the same shall continue to be so fixed up and exhibited until the end of the next ensuing General Sessions of the Peace; and for every schedule so made and exhibited by the Clerk of the Peace, he shall be allowed in his accounts with the county the fee of \$4, besides the expense of publication, all of which shall be paid by the Treasurer of the county. R. S. O. 1877, c. 76, s. 5.

Clerk of the Peace, etc., to publish and post up returns.

6. All returns so received by the Clerks of the Peace shall be entered of record by them quarterly, in the same manner as formerly recorded at Quarter Sessions; and the duties, liabilities, fees and emoluments of the Clerks of the Peace in respect thereof shall continue the same as if the returns had been made to the Court of General Sessions, until otherwise varied by competent authority. R. S. O. 1877, c. 76, s. 6.

Entry of returns by Clerks of the Peace.

7. The Clerk of the Peace of every county, within twenty days after the end of each General Sessions of the Peace, shall transmit to the Inspector of Legal offices, at Toronto, a true copy of all returns made within his county, and also a return of all cases brought before, or tried at, the said General Sessions of the Peace, or at the County Judge's Criminal Court up to the date of such return, such last mentioned return to be in similar form to the return set out in section 1 of this Act. 49 V. c. 16, s. 21.

Copy of returns to be sent to inspector of legal offices.

8. Nothing herein contained shall exonerate Justices of the Peace from duly returning to the General Sessions of the Peace of their respective counties, any convictions, or records of convictions, which are by law required to be so returned. R. S. O. 1877, c. 76, s. 8.

This Act not to dispense with other necessary returns.

CHAPTER 77.

An Act respecting Returns of Convictions by Stipendiary and Police Magistrates.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Record of convictions.

1. Every Police Magistrate, except as hereinafter mentioned, and every Stipendiary Magistrate shall keep, or cause to be kept, at the place where he most usually holds his Court, a book ruled in the same manner as the form of return of convictions given in *The Act respecting Returns of Convictions and Fines by Justices of the Peace*, and shall, from time to time enter, or cause to be entered in the said book, in respect of convictions had before him whether the conviction is under a law within Dominion or Provincial authority, the information required to be given in the returns prescribed by the said Act. 49 V. c. 17, s. 1.

Rev. Stat. c. 76.

Cost of book in which record kept.

2. In the case of a Police Magistrate the cost of the book shall be returned to him by the municipality of which he is a Police Magistrate; or if he is a Police Magistrate of territory composed of two or more municipalities, the cost shall be repaid by the county, and in case of a Stipendiary Magistrate the cost of the book shall be repaid out of the Consolidated Revenue Fund of the Province. 49 V. c. 17, s. 2.

When entries to be made.

3. The required entries shall be made forthwith upon the happening of the event in respect of which information is to be given; and in case the fine, forfeiture, penalty, or damages imposed, is or are not collected within three months after the imposition thereof, the cause of the same not having been collected shall be written in the column for observations. 49 V. c. 17, s. 3.

Record to be open to inspection.

4. Any person shall be at liberty to inspect the book under this Act at any reasonable time upon the payment of a fee of ten cents, to be paid to the clerk, or to the magistrate, if there is no clerk; but any person upon whom any fine, forfeiture, penalty, or damages has or have been imposed, or any person in his behalf, may at any reasonable time gratuitously inspect the entry in respect of his conviction; and the book kept by or for a Police Magistrate shall, at all reasonable times, be open to the gratuitous inspection of any of the officers of the municipality. 49 V. c. 17, s. 4.

Penalty.

5. In case a Police or Stipendiary Magistrate before whom a conviction takes place, or who receives any such moneys, neglects to make, or cause to be made, the proper entry in

respect thereto for more than one month after the conviction takes place, or after the receipt of money paid him in respect of the imposition of a fine, forfeiture, penalty or damages, such Magistrate shall forfeit and pay the sum of \$80, together with full costs of suit, to be recovered by any person who sues for the same in any Court of Record in the Province, one moiety of which sum shall be paid to the party suing and the other moiety to the Treasurer of the Province for the public use of the Province; and the provisions of section 4 of *The Act respecting Returns of Convictions and Fines by Justices of the Peace* shall apply to any action brought under this section for the recovery of a penalty. 49 V. c. 17, s. 5. Rev., Stat. c. 76.

6. The provisions of section 1 of the said Act shall not be held to apply to a Police or Stipendiary Magistrate, nor shall it be necessary that convictions by Police or Stipendiary Magistrates should be published in any newspaper. 49 V. c. 17, s. 6. Application of
Rev., Stat. c. 76.
s. 1, limited.

7. The council of any municipality may at any time cause copies of such entries to be made, and may cause the same to be published in any newspaper, or otherwise, as may be deemed fitting. 49 V. c. 17, s. 7. Publication of
entries.

8. Except as hereinafter mentioned, every Police Magistrate shall forward to the Clerk of the Peace of the county, for which, or within which, he is Police Magistrate, and to the Inspector of legal offices at Toronto, on or before the second Tuesday in each of the months of March, June, September and December, of every year, a copy certified by him to be a true copy of the entries in his book aforesaid with reference to convictions had before him, or fines, forfeitures, penalties or damages, imposed by him, during the three months ending on the last day of the month of February, May, August, or November, next preceding such second Tuesday; and he shall also append to the copy a statement of any transactions which have taken place during the time covered by the said period with reference to any conviction made, or fine, forfeiture, penalty or damages, imposed by him during any previous period. 49 V. c. 17, s. 8. Return of
convictions

9. In the case of a city or town which has a salaried clerk of the police court other than the clerk of the council of the city or town, the duties directed by this Act to be performed by the Police Magistrate shall under the like penalties and within the like periods be performed by the clerk. The Police Magistrate shall supervise the performance of the said duties by the clerk. 49 V. c. 17, s. 9. Duties of clerk
of police court.

10. This Act shall not apply to the City of Toronto. 49 V. c. 17, s. 10. Act not to
apply to
Toronto.

CHAPTER 78.

An Act respecting the Fees of Justices of the Peace.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts, as follows:—

Fees receivable for certain services.

1. The fees mentioned in the Schedule to this Act, and no others, shall be and constitute the fees to be taken by Justices of the Peace, or by their clerks, for the duties and services therein mentioned; and shall be the costs to be charged in summary proceedings or convictions before the Justice, where no other fees are expressly prescribed. R. S. O. 1877, c. 77, ss. 1, 2.

Fees in cases not expressly prescribed.

2. This Act shall not authorize any claim being made by the Justices aforesaid, for fees of any description connected with cases above the degree of misdemeanor. R. S. O. 1877, c. 77, s. 3.

Fees not allowed in cases above misdemeanors.

3. Every Justice wilfully receiving a larger amount of fees than by law are authorized to be received, shall forfeit and pay the sum of \$80, together with full costs of suit, to be recovered by any person who sues for the same in any Court of Record in the Province, one moiety whereof shall be paid to the party suing, and the other moiety to the Treasurer of the Province, to and for the uses of the Province. R. S. O. 1877, c. 77, s. 4.

Penalty for taking unauthorized fees.

Fees to witnesses in certain cases.

4. In cases of conviction where persons are subpoenaed to give evidence before Justices of the Peace in cases of assault, trespass or misdemeanor, the witness shall be entitled, in the discretion of the Justice, to receive fifty cents for every day's attendance, where the distance travelled in coming to and returning from such adjudication does not exceed ten miles, and five cents for each mile above ten. R. S. O. 1877, c. 77, Sched. B, *Item* 10.

SCHEDULE

(Section 1.)

TABLE OF FEES TO BE TAKEN BY JUSTICES OF THE PEACE, OR THEIR CLERKS.

1. For an Information and Warrant for apprehension, or for an Information and Summons for assault, trespass, or other misdemeanor.....	80 50
2. For each copy of Summons to be served on defendant or defendants.....	10

3. For every Subpoena, (<i>only one Subpoena on each side to be charged for in each case, which may contain any number of names.</i>).....	10
(<i>If the justice of the case requires it, additional Subpoenas shall be issued without charge.</i>) R. S. O. 1877, c. 77, Sched. A, items 1-3; Sched. B, items 1-3.	
4. For every Recognizance (<i>only one to be charged in each case</i>)	25
5. For Information and Warrant for surety of the peace for good behaviour, (<i>to be paid by complainant</i>).....	50
6. For Warrant of Commitment for default of surety to keep peace or good behaviour (<i>to be paid by Complainant</i>)	50
R. S. O. 1877, c. 77, Schedule A.	
7. For hearing and determining the case. 41 V. c. 4, s. 6	50
8. Where one Justice alone cannot lawfully hear and determine the case, an additional fee for hearing and determining to be allowed to the associate Justice.....	50
In case more Justices hear the case, the Justice by whom the information was taken, if he hears the case, shall be entitled to one fee of fifty cents for hearing and determining, and the Justice who sat at his request shall be entitled as associate to the said additional fee, when one is chargeable: if a case occurs which is not covered by this provision, the justices shall be entitled to the fees according to their seniority as justices. 48 V. c. 13, s. 34.	
9. For Warrant to levy penalty	25
10. For making up every Record of Conviction where the same is ordered to be returned to the Sessions, or on <i>certiorari</i>	1 00
11. But in all cases which admit of a summary proceeding before a single Justice of the Peace, and wherein no higher penalty than \$20 can be imposed, there only shall be charged for the conviction not more than.....	50
And for the warrant to levy the penalty	25
12. For copy of any other paper connected with any trial, and the minutes of the same if demanded—per folio of one hundred words	10
13. For every Bill of Costs, (<i>when demanded to be made out in detail</i>).....	10
[Items 12 and 13 to be only chargeable when there has been a conviction.]	
R. S. O. 1877, c. 77, Sched B, items 5-9.	

2. *Other Officers of Justice..*

CHAPTER 79.

An Act respecting County Crown Attorneys.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

APPOINTMENT OF COUNTY CROWN
ATTORNEYS, ss. 3, 4.

SECURITY, s. 5.

OATH, s. 6.

NOT TO ACT FOR PRISONERS, s. 7.

DUTIES:—

Generally, s. 8.

To examine informations, s. 9 (1).

To secure attendance of witnesses,
s. 9 (1).To institute and conduct prosecutions
at Sessions and County
Judge's Criminal Courts, s. 9 (2).To watch private prosecutions and
intervene if necessary, s. 9 (3).To attend Crown officer at Assizes
and in his absence conduct prosecutions, s. 9 (4).To conduct summary proceedings
relating to the revenue, s. 9
(5).

To advise Justices, s. 9 (6).

To perform duties assigned to him
by Order in Council, s. 9 (7).To have custody of informations,
etc., s. 10.POWER OF LIEUT.-GOVERNOR IN
COUNCIL TO REGULATE DUTIES,
s. 11.APPOINTMENT OF A SUBSTITUTE, s. 12.
FEES, ss. 13-17.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Short title.

1. This Act may be cited as "*The County Crown Attorneys Act*." R. S. O. 1877, c. 78, s. 1.

Interpreta-
tion.

2. Unless there is something in the context repugnant to such construction, the word "Assizes," when used in this Act, shall be understood to mean the sittings of the High Court for the trial of criminal causes, or the sittings of any Court of Assize or of Oyer and Terminer and General Gaol Delivery. R. S. O. 1877, c. 78, s. 2.

Lieutenant-
Governor to
appoint, re-
move, etc.

3. The Lieutenant-Governor shall from time to time appoint a Crown Attorney for each county in Ontario, to hold office during pleasure. R. S. O. 1877, c. 78, s. 3.

Who qualified
to be appoint-
ed.

4. No person shall be appointed a County Crown Attorney, or shall act in that capacity, who is not a barrister-at-law of at least three years' standing at the Bar of Ontario, and a resident in the county for which he is appointed. R. S. O. 1877, c. 78, s. 4.

5. Every County Crown Attorney shall give security for the due performance of the duties of his office, and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant-Governor directs. R. S. O. 1877, c. 78, s. 5.

County Crown Attorneys to give security.

6. No County Crown Attorney shall be qualified to act as such until he has taken, before some County Judge, the following oath, that is to say :

Oath of office.

“I do swear that I will truly and faithfully, according to the best of my skill and ability, execute the several duties, powers and trusts of County Crown Attorney for the County of _____, without favour or affection to any party : So help me God.”

R. S. O. 1877, c. 78, s. 6.

7. No County Crown Attorney shall by himself or his partner in business, act or be directly or indirectly concerned as counsel or solicitor for any prisoner or party, in respect to any charge against such prisoner or party of treason, felony or other offence, punishable under the criminal law in force in this Province. R. S. O. 1877, c. 78, s. 7.

Not to act as counsel for prisoners.

8. The County Crown Attorney for each county shall aid in the local administration of justice, and perform the duties by this Act or any other Act, either of Canada or of this Province, assigned to County Crown Attorneys. R. S. O. 1877, c. 78, s. 8.

Duties generally.

9. Every County Crown Attorney—

Special duties.

1. Shall receive and examine all informations, examinations, depositions, recognizances, inquisitions and papers connected with criminal charges which the Justices of the Peace and Coroners of the county are required to transmit to him, and where necessary, he shall cause such charges to be further investigated, and additional evidence to be collected, and shall sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions at the Assizes, General Sessions and County Judge's Criminal Court, may not be unnecessarily delayed or fail through want of proof ;

To receive and examine informations, etc.

To secure attendance of witnesses.

2. He shall institute and conduct on the part of the Crown prosecutions for felonies and misdemeanors at the Court of General Sessions, and the County Judge's Criminal Court for the county he is appointed to, in the same manner as the Law Officers of the Crown institute and conduct similar prosecutions at the Assizes, and with like rights and privileges, except as to the right of entering a *nolle prosequi*, and generally he shall attend to all criminal business at the Court of General Sessions and the County Judge's Criminal Court ;

To institute and conduct prosecutions at Sessions, etc.

To watch certain cases brought by private prosecutors.

3. He shall watch over the conduct of cases at the Court of General Sessions wherein it is questionable if the conduct complained of be punishable by law, or where the particular act or omission presents more of the features of a private injury than a public offence; and without unnecessarily interfering with private individuals who wish in such cases to prosecute, may assume wholly the conduct of the case where justice towards the accused seems to demand his interposition ;

To deliver papers connected with criminal business at Assizes to Crown Officer.

4. He shall deliver to the Crown Officer or Counsel appointed by the Attorney-General, all papers connected with the criminal business at the Assizes on or before the opening of the Court ; he shall be present at the Court, and, if required, shall assist the Crown Officer or Counsel with the criminal business, and in the absence of the Law Officers of the Crown and of such Counsel, he shall represent the Crown, and take the charge and conduct of the criminal business to be done at the Assizes for his County ;

When to officiate thereat.

To institute and conduct summary proceedings before Justices of the Peace in certain cases.

5. If required by the general regulations touching his office made in pursuance of the provisions hereinafter contained, he shall institute and conduct proceedings before Justices of the Peace under any Act or law conferring summary powers to convict, for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health, and any other matter made punishable on summary conviction before Justices of the Peace ; and the County Crown Attorney is hereby empowered to institute such proceedings, on a complaint in writing, or as public prosecutor, in cases wherein the public interests require the exercise of such office ;

To advise Justices of the Peace at their request.

6. If by any Justice of the Peace requested in writing containing a statement of the particular case, he shall advise and instruct the Justice in respect to criminal offences brought before him for preliminary investigation or for adjudication :

To perform duties to be assigned by regulations in Council.

7. He shall perform such duties and services as the Lieutenant-Governor, by regulations in Council, from time to time prescribes and directs for carrying out the provisions of any Act imposing duties upon County Crown Attorneys, and also touching the office of County Crown Attorney and the prosecution of criminal offenders. R. S. O. 1877, c. 78, s. 9.

Justices committing or bailing on criminal charges, to deliver informations, etc., to County Crown Attorney, who shall be "the proper officer," within R. S. C. c. 174. Sec. 30 *et. seq.*

10. In every case where a person is committed for trial, or bailed to answer to a criminal charge, the Justice of the Peace so committing or bailing shall deliver or cause to be delivered without delay to the County Crown Attorney the informations, depositions, examinations, recognizances and papers connected with the charge ; and subject to the provisions of section 3 of chapter 74 of these Revised Statutes, the County Crown Attorney shall be deemed the "proper officer" of the Courts within the meaning of *The Criminal Procedure Act*, and in

every case of inquisition found before a Coroner, the inquisition and every recognizance taken before him, with the written information (if any), and the depositions and statements (if any) of the accused, shall be forthwith delivered to the Crown Attorney of the County in which the inquisition has been found; and in every case in which an information has been laid or complaint made before a Justice of the Peace, whether proceedings have been taken therein or not, the Justice shall hand over to the County Crown Attorney all papers connected therewith, on being by him required so to do. R. S. O. 1877, c. 78, s. 10. *See also as to Coroners, Cap. 80, s. 13.*

Like provision in case of inquisitions before Coroners.

And in other cases on requisition of County Crown Attorney.

11. The Lieutenant-Governor in Council may from time to time make such general regulations as to him seem expedient, for carrying out the provisions of any Act imposing duties upon County Crown Attorneys, and also touching the office of County Crown Attorney, and for the prosecution of offenders against the criminal laws of this Province, and may from time to time alter such regulations. R. S. O. 1877, c. 78, s. 11.

Lieutenant-Governor in Council may make regulations as to duties of County Crown Attorney.

12. In case of the illness or unavoidable absence of the County Crown Attorney, the Judge of the County Court of the County may appoint some barrister-at-law to act for the County Crown Attorney during his illness or absence, and notice of the appointment and of the cause thereof shall be sent by the County Crown Attorney to the Lieutenant-Governor, who may at any time annul the appointment. R. S. O. 1877, c. 78, s. 12.

Case of unavoidable absence or illness of County Crown Attorney provided for.

13. In every case of misdemeanour tried at the Court of General Sessions, in which costs are or may be ordered to be paid by a defendant, the County Crown Attorney shall be entitled to fees as solicitor and counsel for services rendered in the case, to be taxed by the Court according to the scale of allowance in the County Courts as nearly as the nature of the services will allow; such fees in case of conviction shall form part of the costs payable by a defendant. R. S. O. 1877, c. 78, s. 13.

Fees in cases conducted by him at trial, where costs are paid by defendant.

14. In all cases of felony tried as aforesaid, and in all cases of misdemeanour in which no costs have been ordered to be paid, or, if ordered to be paid, cannot be made of the defendant, the County Crown Attorney shall be entitled to receive for the services rendered by him in every such case the sum of \$5, the same to be paid upon certificate of the Judge presiding at the Court of General Sessions, and to form a portion of the expenses of the administration of criminal justice in Ontario. R. S. O. 1877, c. 78, s. 14.

Fees in cases of felony or misdemeanour when costs are not paid by defendant.

15. For services in the County Judges' Criminal Court, the County Crown Attorney shall be entitled to the same fees as for like services at the Court of General Sessions of the Peace. R. S. O. 1877, c. 78, s. 15.

Fees in County Judges' Criminal Court.

Percentage on
money coming
into his hands.

16. Every County Crown Attorney shall be allowed a percentage of \$4 on every \$100 of public moneys coming into his hands. R. S. O 1877, c. 78, s. 16.

Return of
fees.

17. Every County Crown Attorney and Clerk of the Peace shall, on or before the 15th day of January in every year, make, under oath, a return to the Inspector of Legal Offices of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. 43 V. c. 3, s. 1; 47 V. c. 10, s. 16 (1).

CHAPTER 80.

An Act respecting Coroners.

APPOINTMENT s. 1.
INQUESTS WHEN TO BE HELD, ss. 2, 3.
FEES FOR INQUEST NOT ALLOWED IN
CERTAIN CASES, s. 4.
POWERS OF CORONERS :
Summoning witnesses, ss. 5, 6.

Procuring evidence of medical men
and medical analysis, ss. 7-11.
Other powers, s. 12.
RETURNS OF INQUISITIONS, ETC., ss,
13, 14.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Appointment
of Coroners.

1. The Lieutenant-Governor may, whenever he thinks fit, appoint, under the Great Seal, one or more Coroners in and for every County, City and Town in the Province of Ontario, and for any Provisional Judicial, Temporary Judicial, or Territorial District, or Provisional County, or for any portion of the territory of Ontario, not attached to a County for ordinary municipal and judicial purposes. R. S. O. 1877, c. 79, s. 1.

[*Appointment of Stipendiary Magistrate as Coroner. See Cap. 71, s. 8.*]

In what cases
only inquests
shall be held.

2. Except as provided in the next section, no inquest shall be held on the body of any deceased person by a Coroner until it has been made to appear to the Coroner that there is reason to believe that the deceased died from violence or unfair means, or by culpable or negligent conduct, either of himself or of others, under such circumstances as require investigation, and not through mere accident or mischance. R. S. O. 1877, c. 79, s. 2.

3. Upon the death of a prisoner, the warden, gaoler, keeper or superintendent of the penitentiary, gaol, prison, house of correction, lock-up house, or house of industry in which the prisoner dies, shall immediately give notice thereof to some Coroner of the county, city or town in which the death has taken place, and the Coroner shall proceed forthwith to hold an inquest upon the body. R. S. O. 1877, c. 79, s. 3.

Proceedings
in case of the
death of a
prisoner.

4.—(1) No fees shall be claimable by a Coroner in respect of an inquest, unless, prior to the issuing of his warrant for summoning the jury, he shall have made a declaration in writing under oath (which oath may be administered by a justice of the peace, commissioner for taking affidavits in the High Court, or a notary public, and shall be returned and filed with the inquisition), stating that from information received by the Coroner, he is of opinion that there is reason for believing that the deceased did not come to his death from natural causes or from mere accident or mischance, but came to his death from violence or unfair means or culpable or negligent conduct of others, under circumstances requiring investigation by a coroner's inquest. 43 V. c. 11, s. 1; 48 V. c. 16, s. 1.

Fees for
inquest not
allowed to
coroners in
certain cases.

(2) This section shall not apply to an inquest held upon the written request of the County Attorney, or to an inquest held in the Districts of Muskoka, Parry Sound, Rainy River and Nipissing, upon the written request of a stipendiary magistrate; or to an inquest held under the preceding section, or under other similar provisions. 43 V. c. 11, s. 2.

5. If a person, having been duly summoned as a juror to serve, or as a witness to give evidence upon a Coroner's inquest, does not, after being openly called three times, appear and serve as a juror, or appear and give evidence as a witness, the Coroner may impose upon the delinquent a fine not exceeding \$4; and shall thereupon make out and sign a certificate containing the name, residence, and trade or calling of the delinquent, the amount of the fine imposed, and the cause of the fine, and shall transmit the certificate to the clerk of the peace of the county in which the delinquent resides, on or before the first day of the General Sessions of the Peace then next ensuing, and shall cause a copy of the certificate to be served upon such delinquent by leaving it at his residence, within a reasonable time after the inquest. R. S. O. 1877, c. 79, s. 4.

Fine on
persons
summoned to
attend inquest
and not
attending.

6. The fine so certified shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects, as if it had been part of the fines imposed at the General Sessions. R. S. O. 1877, c. 79, s. 5.

Fine how
enforced.

7. Where, upon the summoning or holding of a Coroner's inquest, the Coroner finds that the deceased was attended during his last illness, or at his death, by any legally

Coroner may
order medical
attendant of
deceased to at-
tend inquest.

qualified medical practitioner, the Coroner may issue his order for the attendance of such practitioner as a witness at the inquest in the form following :

CORONER'S INQUEST AT _____, UPON THE BODY OF _____

By virtue of this my order, as Coroner for you are required to appear before me and the Jury, at the _____ day of _____, at _____ o'clock, to give evidence touching the cause of the death of _____ [and when the witness is required to make or assist at a post mortem examination, add : and make (or assist) in making a post mortem examination of the body, with (or without) an analysis (as the case may be), and report thereon at the said Inquest.]

Signed, _____ C. P.,
Coroner.

R. S. O. 1877, c. 79, s. 6.

If no medical attendant Coroner may order attendance of any qualified practitioner.

8. If the Coroner finds that the deceased was not so attended, he may issue his order for the attendance of any legally qualified medical practitioner being at the time in actual practice in or near the place where the death happened ; and the Coroner may, at any time before the termination of the inquest, direct a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, by the medical witness summoned to attend at the inquest ; but if any person states upon oath before the Coroner, that in his belief the death was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, such medical practitioner or other person shall not assist at the *post mortem* examination. R. S. O. 1877, c. 79, s. 7.

A majority of the jury may require the Coroner to summon another medical practitioner.

9.—(1) Where it appears to the majority of the jury sitting at a Coroner's inquest that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witnesses examined in the first instance, such majority may name to the Coroner, in writing, any other legally qualified medical practitioner or practitioners, and require the Coroner to issue his order in the form hereinbefore mentioned for the attendance of such last mentioned medical practitioner or practitioners, as a witness or witnesses, and for the performance of a *post mortem* examination as in the last preceding section mentioned, and whether a *post mortem* examination has been previously made or not. R. S. O. 1877, c. 79, s. 8.

Request for additional medical witnesses to be attached to order for payment of fees.

(2) The written request of the jury for any additional medical witnesses, under the provisions of this section, or a copy thereof certified by the Coroner, shall be attached by the Coroner to each order given by him on the treasurer of the county for the payment of the fees of such medical witness or witnesses. 47 V. c. 12, s. 1.

Allowance to medical practitioner.

10. Where a legally qualified medical practitioner has attended in obedience to any order aforesaid, he shall receive for his attendance, if without a *post mortem* examination,

\$5; if with a *post mortem* examination, without an analysis of the contents of the stomach or intestines, \$10; if with such analysis, \$20; together with the sum of twenty cents per mile for each mile he has to travel to and from the inquest, such travel to be proved by his own oath to the Coroner, who may administer the same; and the Coroner shall make his order on the treasurer of the county when the inquest is held in the county, and on the treasurer of the city when death occurs, and the inquest is held in a city, in favour of such medical practitioner, for the payment of the fees or remuneration, and the treasurer shall pay the sum mentioned in the order to the medical witness out of any funds he may then have in the county or city treasury. R. S. O. 1877, c. 79, s. 9; 42 V. c. 17, s. 1.

To be paid on Coroner's order, and by whom.

11. Where any such order for the attendance of any medical practitioner has been personally served, or if not personally served, has been received by him or left at his residence in sufficient time for him to have obeyed the order, and he has not obeyed the same, he shall forfeit the sum of \$40 upon complaint by the Coroner who held or by any two of the jury who sat on the inquest, made before any two Justices of the Peace of the county where the inquest has been held, or of the county where the medical practitioner resides; and the Justices shall proceed to hear and adjudicate upon the complaint; and if the medical practitioner does not shew a sufficient reason for not having obeyed the order, they shall enforce the penalty by distress and sale of the offender's goods in the same manner as they are empowered to do by *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions*. R. S. O. 1877, c. 79, s. 10.

Penalty on practitioner summoned and failing to attend.

Rev. Stat. c. 74.

12. Nothing herein contained shall affect any power otherwise by law vested in any Coroner for compelling any person to appear and give evidence before him, or for punishing any person for contempt of Court, in not so appearing and giving evidence or otherwise. R. S. O. 1877, c. 79, s. 11.

Former powers of Coroner not affected.

13. Every Coroner shall forthwith after an inquisition found before him return the same and every recognizance taken before him, with the written information (if any) and the depositions and statements (if any) of the accused, to the Crown Attorney of the county in which the inquisition has been found. R. S. O. 1877, c. 79, s. 13. *See also* cap. 79, s. 9 (1) and s. 10.

Return of inquisitions to County Crown Attorney.

14. Every Coroner shall, on or before the first day of January in every year, return to the Provincial Treasurer a list of the inquests held by him during the preceding year, together with the findings of the Juries. R. S. O. 1877, c. 79, s. 14.

Coroners to return lists inquests.

[For Coroner's fees, see Rev. Stat. Cap. 83.]

[For Duties of Coroners in relation to the Investigation of Accidents by Fire, see Rev. Stat. Cap. 196.]

[As to application of Cap. 16, ss. 27, 28, *The Act respecting the Office of Sheriff*, see p. 243.]

CHAPTER 81.

An Act respecting Commissioners of Police appointed by the Government of Canada.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Powers of
Dominion
Commissioners of
Police.

R. S. C. c. 184.

Qualification
of Commis-
sioners.

Police con-
stables.

R. S. C. c. 184.

Commission-
ers and con-
stables to have
no authority
in municipal
matters.

1. Every Commissioner of Police duly appointed under the Great Seal of Canada to be and act as such within the Province of Ontario, under and by virtue of the "*Act respecting the Police of Canada*," and authorized in that behalf by commission from the Lieutenant-Governor, under the Great Seal of this Province, shall have and exercise within the several Counties, Temporary Judicial, Provisional Judicial or Territorial Districts, or Provisional Counties within this Province, all the powers and authority, rights and privileges, by law appertaining to Police Magistrates of Cities, and all the powers and authority, rights and privileges appertaining to Justices of the Peace generally; and shall be subject in all respects, except as otherwise provided by this Act, to the requirements of the law of this Province respecting Police Magistrates and the office of Justice of the Peace; but it shall not be necessary for a Commissioner of Police as aforesaid to possess any property qualification or to be actually resident within any County or other territorial division for which the administration of criminal Justice is provided, nor shall it be necessary for any Commissioner of Police to take or subscribe any oath of allegiance or of office within any County or District. R. S. O. 1877, c. 81, s. 1.

2. The police constables appointed or employed by a Commissioner of Police shall be charged with all the powers, rights and responsibilities which belong by law to constables duly appointed in this Province, and they shall be subject to the Commissioner of Police, and liable to all the responsibilities, forfeitures and penalties provided by or expressed in the said *Act respecting the Police of Canada*. R. S. O. 1877, c. 81, s. 2.

3. The Commissioners of Police, and the police constables, notwithstanding anything herein to the contrary, shall as such have no power or authority in respect of offences against municipal by-laws, or as such with any other purely municipal matters; and this Province shall not be liable to any charge for the maintenance of the Commissioners of Police or police constables. R. S. O. 1877, c. 81, s. 3.

4. In case the Lieutenant-Governor revokes a commission issued by him under this Act, the authority of such Commissioner, and of any constable appointed by him, as far as the same are given under or by virtue of this Act, shall forthwith cease. R. S. O. 1877, c. 81, s. 4.

Revocation of commissions by Lieutenant-Governor.

CHAPTER 82.

An Act respecting Constables.

APPOINTMENT BY GENERAL SESSIONS OF THE PEACE, s. 1.

Oath, s. 2.

Duration of appointment, s. 3.

APPOINTMENT BY COUNTY JUDGE, ss. 4-7.

APPOINTMENT BY CERTAIN POLICE MAGISTRATES, s. 8.

SUSPENSION FROM OFFICE, s. 9.

APPOINTMENT BY LIEUTENANT-GOVERNOR, ss. 10, 11.

Provincial constables, s. 10.

In Unorganized Districts, s. 11.

EXEMPTIONS, s. 12.

SPECIAL CONSTABLES :

Appointment, ss. 13-16.

Powers, ss. 17-19.

Remuneration, ss. 20, 21.

Adjournment of special sessions, s. 22.

Suspension and determination of services, ss. 23-24.

Offences and penalties, ss. 25-33.

PROTECTION OF PERSONS ACTING UNDER sec. 13 *et seq.*, ss. 34, 35.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

APPOINTMENT BY GENERAL SESSIONS.

1. The Justices of the Peace may from time to time, at any sitting or adjourned sitting of the Court of General Sessions of the Peace, appoint a County High Constable, and a sufficient number of fit and proper persons to act as Constables in each township, incorporated village, police village and place within their county, and may, in like manner, from time to time, in their discretion, dismiss any Constable so appointed. R.S.O. 1877, c. 82, s. 1.

2. The persons so appointed shall, before entering on the duties of their office, take and subscribe the following oath, which any Justice of the Peace may administer :

"I, _____, having been appointed High Constable (or Constable) for the County (or United Counties) of _____ do solemnly swear that I will truly, faithfully and impartially perform the duties appertaining to the said office, according to the best of my skill and ability : So help me God."

R. S. O. 1877, c. 82, s. 2.

Continuance
in office.

3. Every Constable so appointed, and having taken the aforesaid oath, shall continue in office at least one year, and shall further continue in office from year to year without re-appointment, unless he claims exemption from serving as Constable, in which case he shall be released at any time after the end of the first year. R. S. O. 1877, c. 82, s. 3.

APPOINTMENT BY COUNTY JUDGE.

Appointment
of Constables
by County
Court Judges.

4. To prevent injurious delay in appointing County Constables, arising from the long intervals between the sittings of the Courts of General Sessions of the Peace, any Judge of a County Court may, at any time, and from time to time, appoint any person or persons to be a Constable or Constables for the County or United Counties of the County Court of which such Judge is a Judge. R. S. O. 1877, c. 82, s. 4.

Clerk of the
Peace
to be notified.

5. The Judge making the appointment shall forthwith notify the Clerk of the Peace thereof. R. S. O. 1877, c. 82, s. 5.

Clerk to report
to the General
Sessions.

6. The Clerk of the Peace shall report every such appointment to the next Court of General Sessions of the Peace which is holden after he receives notice thereof from the Judge, and unless at such Court the appointment is revoked by order duly passed in Sessions, the same shall continue as if the same had originally been made at such Court. R. S. O. 1877, c. 82, s. 6.

Authority of
Constables.

7. A Constable so appointed by a Judge as aforesaid shall, during the continuance of the appointment, have the same authority and privileges and be subject to the same liability and the performance of the same duties as if originally appointed by the Court of General Sessions of the Peace. R. S. O. 1877, c. 82, s. 7.

Certain Police
Magistrates
may appoint
temporary
Constables.

8.—(1) A salaried county or district Police Magistrate shall have power from time to time to appoint a Constable for the county or union of counties or district of which he is a Police Magistrate, such Constable to hold office for not more than thirty days.

(2) The Police Magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

(3) The appointment may be revoked by the Police Magistrate, or by the Provincial Secretary, before the expiration of the thirty days.

(4) A Constable appointed by a Police Magistrate shall have the same authority and privileges, and be subject to the same liability and the performance of the same duties, as if appointed by the Court of General Sessions of the Peace. 50 V. c. 11, s. 6.

SUSPENSION FROM OFFICE.

9. The Judge of the County Court may suspend from office any County Constable for any period in the discretion of the Judge, but not beyond one week after the time appointed for the next sittings of the General Sessions of the Peace; the suspension shall be by notice in writing, and in case the Judge considers the suspended officer deserving of dismissal, the Judge shall, immediately after suspending him, report the case fully to the Clerk of the Peace for submission to the Justices at the next General Sessions of the Peace; and the Justices may dismiss the officer, or direct him to be restored to his office, after the period of his suspension has expired, or after such further period of suspension as they may order. R. S. O. 1877, c. 82, s. 8.

Suspension of
Constables by
County Court
Judge.

APPOINTMENT BY LIEUTENANT-GOVERNOR.

Provincial Constables.

10. The Lieutenant-Governor may appoint, either permanently or for such a period as he may think fit, persons to be Provincial Constables, and every person so appointed shall, while he holds office, be a Constable of every county and district in Ontario, and, as such, shall have authority to act in any part of this Province. R. S. O. 1877, c. 82, s. 9.

Appointment
of Provincial
Constables by
Lieutenant-
Governor.

In Unorganized Districts.

11. The Lieutenant-Governor may, from time to time, appoint Constables for any Provisional Judicial, Temporary Judicial or Territorial District, or Provisional County, or for any portion of the territory of Ontario not attached to a county for ordinary municipal and judicial purposes. R. S. O. 1877, c. 82, s. 10. See also Cap. 91, s. 78.

Appointment
of Constables
in unorganized
Districts.

EXEMPTIONS.

12. The officers, non-commissioned officers and men of corps of volunteers shall, while they continue such, be exempt from serving as Constables (except as special constables); and a certificate under the hand of the officer commanding any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption as aforesaid. R. S. O. 1877, c. 82, s. 11.

Exemption of
Volunteers
from serving
as Constables.

APPOINTMENT OF SPECIAL CONSTABLES.

13. In case it is made to appear to any two or more Justices of the Peace of any territorial division in this Province, upon the oath of any credible witness, that any tumult, riot, or felony has taken place or is continuing, or may be reasonably

Any two or
more Justices
of the Peace
empowered to
appoint

special constables in certain cases of apprehension of riot, felony, etc.

Who may be appointed.

apprehended in any territorial division or place situate within the limits for which the respective Justices usually act, and in case the Justices are of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of the property in such territorial division or place as aforesaid, then and in every such case the Justices or any two or more Justices acting for the same limits may nominate and appoint, by precept in writing under their hands, so many as they think fit of the householders or other persons not legally exempt from serving in the office of Constable, residing in such territorial division or place as aforesaid, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to the said Justices respectively seems necessary for the preservation of the public peace and for the protection of the inhabitants and the security of property in the territorial division or place. R. S. O. 1877, c. 83, s. 1.

Such Justices may administer an oath of office to the person so appointed.

14. The Justices of the Peace who appoint Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting for the same limit, may administer to any person so appointed the following oath, that is to say :

Oath.

“ I, *A. B.*, do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Special Constable for the _____ of _____, without favour or affection, malice or ill-will ; and that I will, to the best of my power, cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects ; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law : So help me God.”

R. S. O. 1877, c. 83, s. 2.

Notice of appointment to be sent to Provincial Secretary.

15. In case it is deemed necessary to nominate and appoint Special Constables as aforesaid, notice of the nomination and appointment, and of the circumstances which rendered it expedient, shall be forthwith transmitted by the Justice making the nomination and appointment to the Secretary of the Province. R. S. O. 1877, c. 83, s. 3.

Justices may make regulations touching constables.

16. The Justices of the Peace who appoint any Special Constables under this Act, or any two of them, or the Justices acting for the limit within which the Special Constables have been called out, may, at a special session of the last mentioned Justices, or the major part of the last mentioned Justices, at such special session, make such orders and regulations as may from time to time be necessary and expedient for rendering the Special Constables more efficient for the preservation of the public peace, and may remove any such Special Constable from his office for any misconduct or neglect of duty therein. R. S. O. 1877, c. 83, s. 4.

17. Every Special Constable appointed under this Act shall, not only within the territorial division or place for which he has been appointed, but also throughout the entire jurisdiction of the Justices who appoint him, have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to all such duties and responsibilities, as any Constable duly appointed has by virtue of any law or statute whatsoever. R. S. O. 1877, c. 83, s. 5.

Powers of special constables, and local extent of such powers.

18. Where Special Constables appointed under this Act are serving within a territorial division or place, and two or more Justices of the Peace of an adjoining territorial division or place, make it appear, to the satisfaction of two or more Justices of the Peace, acting for the limits within which the Special Constables are serving, that extraordinary circumstances exist which render it expedient that the Special Constables should act in such adjoining territorial division or place, then and in every such case the last mentioned Justices may, if they think fit, order all or any of the Special Constables to act in the adjoining territorial division or place in such manner as to the last mentioned Justices seems meet. R. S. O. 1877, c. 83, s. 6.

Constables may act in an adjoining division in certain cases.

19. Every such Special Constable, during the time he so acts in such adjoining territorial division or place, shall have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to the same duties and responsibilities, as if he were acting within the territorial division or place for which he was originally appointed. R. S. O. 1877, c. 83, s. 7.

Their powers in such adjoining division.

20. The Justices of the Peace acting for the limits within which the Special Constables have been called out to serve, may, at a special session to be held for that purpose, or the major part of the Justices at such special session, may from time to time order such reasonable allowances for their trouble, loss of time and expenses, not exceeding \$1 per diem, to be paid to such Special Constables who have so served or are then serving, as to the Justices or to the major part of them seems proper. R. S. O. 1877, c. 83, s. 8.

Special constables may be paid a per diem allowance.

21. The Justices so ordering shall make every order for the payment of the allowances and expenses upon the Treasurer of the territorial division or other municipal division within which the Special Constables have been called out to serve, and the Treasurer shall pay the same out of any moneys in his hands at the time, and the Treasurer shall be allowed the same in his accounts, and the sum shall be provided for by the council of the territorial division or other municipal division wherein the expense arises. R. S. O. 1877, c. 83, s. 9.

Allowance to be paid by the Treasurer of the municipality.

Special sessions may be adjourned and shall be held legal until the contrary is proved.

22. The Justices of the Peace assembled at a special session for any of the purposes mentioned in this Act, may adjourn the same from time to time as they think proper; and every special session actually holden for any of the purposes mentioned in this Act, shall be deemed and taken to have been legally holden until the contrary is proved. R. S. O. 1877, c. 83, s. 10.

Justices may suspend or determine the services of special constables.

23. The Justices who have appointed Special Constables under this Act, or the Justices acting for the limits within which the Special Constables have been called out, at a special session to be held for that purpose, or the major part of such last mentioned Justices at such special session, may suspend or determine the service of all or any of the Special Constables so called out, as to the Justices respectively seems meet; and notice of the suspension or determination of the services of all or any of the Special Constables shall be forthwith transmitted by the respective Justices to the Secretary of the Province. R. S. O. 1877, c. 83, s. 11.

Special constables to deliver up their staves, etc., when discharged.

24. Every Special Constable shall, within one week after the expiration of his office, or after he has ceased to hold or exercise the same pursuant to this Act, deliver over to his successor, if any has been appointed, or otherwise to such person and at such time and place as may be directed by a Justice of the Peace acting for the limits within which the Special Constable has been called out, every staff, weapon and other article which has been provided for such Special Constable under this Act; and if any Special Constable omits or refuses so to do, he shall, on conviction thereof before two Justices of the Peace, forfeit and pay for the offence such sum of money, not exceeding \$8, as to the convicting Justices seems meet. R. S. O. 1877, c. 83, s. 12.

Penalty.

Penalty on persons appointed and refusing to take the oath.

25. If any person being appointed a Special Constable as aforesaid refuses to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace who so appointed him, or by any two of them, or by any other two Justices of the Peace acting for the same limits, he may be convicted thereof forthwith before the Justices so requiring him, and shall forfeit and pay such sum of money, not exceeding \$20, as to the convicting Justices seems meet. R. S. O. 1877, c. 83, s. 13.

Penalty for neglect to appear at place appointed for taking such oath.

26. If a person, being appointed a Special Constable as aforesaid, neglects or refuses to appear for the purpose of taking the said oath at the time and place for which he has been summoned, he may be convicted thereof before the Justices who appointed him, or any two of them, or before any other two Justices of the Peace acting for the same limits, and shall forfeit and pay such sum of money, not exceeding \$20, as to the convicting Justices seems meet, unless such person proves

to the satisfaction of the Justices that he was prevented by sickness or some unavoidable accident which in the judgment of the Justices is a sufficient excuse. R. S. O. 1877, c. 83, s. 14.

27. If a person having been appointed a Special Constable as aforesaid, and being called upon to serve, neglects or refuses to serve as such Special Constable, or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office, the person so offending shall, on conviction thereof before two Justices of the Peace, forfeit and pay for every such neglect or refusal such sum of money, not exceeding \$20, as to the Justices seems meet, unless the person proves to the satisfaction of the Justices that he was prevented by sickness or some unavoidable accident in the judgment of the Justices constituting a sufficient excuse. R. S. O. 1877, c. 83, s. 15.

Penalty for refusing to act or to obey orders.

28. The Justices of the Peace before whom any person is summarily convicted of an offence against this Act may cause the conviction to be drawn up in the following form of words, or to the like effect, that is to say :

Form of conviction.

To Wit : } Be it remembered, that on the day of
 } in the year of our Lord , in the of , in
 the County (or as the case may be) of , J. N. is convicted
 before us A. B. and C. D., two of Her Majesty's Justices of the Peace for
 the said County (or as the case may be) of ,
 for that he the said J. N., did (here specify the offence, and the time and
 place when and where the same was committed, as the case may be), and
 we do adjudge that the said J. N. shall for the said offence forfeit the
 sum of , and shall pay the same immediately (or shall pay
 the same on or before the day of) to the
 Treasurer of the

Given under our hands the day and year first above mentioned.

A. B.
C. D.

R. S. O. 1877, c. 83, s. 16.

29. The Justices of the Peace by whom any person is summarily convicted and adjudged to pay any sum of money for an offence against this Act, may adjudge that such person shall pay the same either immediately or within such period as the Justice thinks fit; and in case such sum of money is not paid by the time so appointed, the same shall be levied by distress and sale of the goods and chattels of the offender, together with the reasonable charges of the distress; and for want of sufficient distress the offender shall be imprisoned in the common gaol for any term not exceeding one month when the fine to be paid does not exceed \$20, and for any term not exceeding two months in any other case; the imprisonment to cease in every case upon payment of the sum due. R. S. O. 1877, c. 83, s. 17.

How penalties may be levied if not paid within the time appointed.

Convictions not to be removed or declared void for want of form, etc.

30. No conviction for an offence against this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise into the High Court; and no warrant of commitment shall be held void by reason of any defect therein, provided it is therein alleged that it is founded on a conviction, and there is a good and valid conviction to sustain the same. R. S. O. 1877, c. 83, s. 18.

Provisions as to distress and proceedings under it.

31. Where a distress has been made for levying moneys by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant, distress or other proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage, if any. R. S. O. 1877, c. 83, s. 19.

Limitations of prosecutions.

32. The prosecution for every offence punishable upon summary conviction by virtue of this Act, shall be commenced within two months after the commission of the offence. R. S. O. 1877, c. 83, s. 20.

Application of penalties.

33. Every penalty or forfeiture for any offence against this Act shall be paid to the Treasurer of the territorial division or other municipal division within which the offence was committed. R. S. O. 1877, c. 83, s. 21.

PROTECTION OF PERSONS ACTING UNDER SECTION 13 AND FOLLOWING SECTIONS.

Actions to be tried in the County, and within six months.

34. All actions and prosecutions against any person for anything done in pursuance of section 13 and the subsequent sections of this Act shall be tried in the county or district where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such cause of action shall be given to the defendant one month at least before the commencement of the action. R. S. O. 1877 c. 83, s. 22.

Tender of amends.

35. No plaintiff shall recover in such action if tender of sufficient amends was, by or on behalf of the defendant, made before action brought, or if a sufficient sum of money has been paid into Court since action brought; and though a verdict is given for the plaintiff in the action, the plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is had certifies his approbation of the action and of the verdict obtained. R. S. O. 1877, c. 83, s. 23.

No costs unless on certificate of Judge.

3. *Expenses of Administration of Justice.*

CHAPTER 83.

An Act respecting the Fees of Counsel and other Officers in the Administration of Justice.

FEES OF COUNSEL AND SOLICITORS, s. 1.	Mode of levying, s. 5.
FEES OF SHERIFFS, CORONERS, CLERKS OF THE PEACE, CON- STABLES AND CRIERS, ss. 2-4, 6, 10-12. .	PENALTIES FOR TAKING UNAUTHOR- IZED FEES, ss. 7, 8.
	FEES TO GAOL SURGEONS, s. 9.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1.—(1) Where not otherwise provided by law, the Judges The High Court to frame tariff of fees to be allowed to Counsel, etc., in criminal and Exchequer cases.
authorized to make rules under sections 105 and 108 of *The Judicature Act* may from time to time determine and by Rule or Order declare the fees to be allowed to any Counsel, Solicitor, or other such officer or person for or in respect of any business done or transacted in the High Court in criminal prosecutions, and in all matters, causes and proceedings which relate to the Queen's Revenue, and in all prosecutions, matters and proceedings under any Commission or Court of Oyer and Terminer and General Gaol Delivery, or under any Special Commission or Court of Oyer and Terminer. R. S. O. 1877, c. 84, s. 1 (1); 50 V. c. 8, Sched.

(2) The Judges shall, in tables to be framed by them as aforesaid, distinguish the fees to be paid by private individuals. R. S. O. 1877, c. 84, s. 1 (2).

2. Subject to any Rules of Court made under *The Judicature Act*, the table of fees in the Schedule appended to this Act, shall be and constitute the fees to be taken by Sheriffs, Coroners, Clerks of the Peace, Constables and Criers respectively, for the services therein mentioned in respect of any business by them done and transacted in all such prosecutions, matters, causes and proceedings as aforesaid, and in proceedings in the County Judge's Criminal Court and before Coroners or Justices of the Peace. R. S. O. 1877, c. 84, s. 2.

Arrangement
may be made
with Clerk
of the Peace
as to his fees.

Proviso.

3. It shall be lawful for a county council to agree from time to time with the clerk of the peace for the payment to him of a gross annual sum, in lieu of all fees chargeable by him to the county, and which are not repayable to the county by the Province: Provided always, that either of the parties to any such agreement may determine the same on the 31st day of December in any year, by giving to the other one month's notice, in writing, of his or their intention so to do. 42 V. c. 18, s. 1.

Fees to con-
tables.

4. The Lieutenant-Governor in Council may from time to time alter the fees to be taken by constables for services rendered by such officers in the administration of criminal justice or in any proceedings had before coroners or Justices of the Peace. R. S. O. 1877, c. 84, s. 3.

Mode of levy-
ing fees.

5. All percentage, fees or allowances, on levying fines and recognizances, may be levied over and above the amount of the fines and recognizances. R. S. O. 1877, c. 84, s. 4.

Fees for ser-
vices not men-
tioned herein.

6. Nothing herein contained shall deprive any of the before mentioned officers of fees allowed by any Act of Parliament, or of the Legislature of this Province, for other services not herein provided for. R. S. O. 1877, c. 84, s. 5.

Penalty for
taking higher
fees.

7. If any officer hereinbefore mentioned wilfully and knowingly demands or receives any other or greater fee or allowance than the fee and allowance to which he is entitled under this Act, for any of the services performed by him (unless allowed by some other Act of Parliament, or of the Legislature of this Province or by the Lieutenant-Governor in Council, under section 4 of this Act), he shall, for every such offence, forfeit and pay the sum of \$40 to any person who sues therefor in any Court of competent jurisdiction. R. S. O. 1877, c. 84, s. 6.

Limitation of
actions for
penalties.

8. Every such action must be brought before the end of six months after the offence was committed, and not otherwise. R. S. O. 1877, c. 84, s. 7.

Fees of Gaol
Surgeon.

9. There may be paid to Gaol Surgeons for the examination of every prisoner eligible for removal, or sentenced to the Central Prison, and for the examination of every prisoner whom it is proposed to sentence or remove to the Female Reformatory, including certificate, the fee of \$1. R. S. O. 1877, c. 84, s. 8; 44 V. c. 8, s. 3, *part*.

Fees of
sheriffs.

10. The tariff of fees established by this Act, for the services of sheriffs in connection with offenders sentenced or liable to be removed to the Central Prison, shall apply also to offenders sentenced or liable to be removed to the Female Reformatory, or to the Reformatory for Boys; the fees shall in

the first instance, be paid out of county funds, unless the gaol is owned and maintained by a city municipality in which case the fees, in respect of prisoners convicted for offences committed within the city limits, shall be paid in the first instance out of the city funds, and so far as they relate to prisoners convicted for offences committed in the county without the limits of the city, shall be paid in the first instance out of the county funds; and the county or city may be subsequently repaid from the Consolidated Revenue such proportion thereof as relates to prisoners convicted of indictable offences at the Assizes, General Sessions or County Judges' Criminal Court, or convicted by Police or Stipendiary Magistrates, under *The Summary Trials Act*. 44 R. S. C. c. 176. V. c. 8, s. 3, *part*; 45 V. c. 11, s. 10; 46 V. c. 8, s. 2.

11. Items numbered 13, 31, 37 and 38, in the schedule, as to Sheriff's fees, shall not apply to the counties of Bruce, Carleton, Essex, Grey, Hastings, Huron, Kent, Lambton, Leeds and Grenville, Lincoln, Middlesex, Northumberland and Durham, Oxford, Perth, Simcoe, Victoria, Welland, Wellington, Wentworth and York, the City of Toronto, or the Districts of Algoma and Thunder Bay, and items numbered 29, 39, 40 and 41, shall not apply to the County of York or the City of Toronto. 45 V. c. 11, s. 14; 47 V. c. 10, s. 15; 48 V. c. 13, s. 28.

Items 13, 31, 37 and 38 not to apply to certain counties.
Items 29, 39-41 not to apply to York or Toronto.

12.—(1) In any case in which in the opinion of the warden and county attorney of a county, special services not covered by the ordinary tariff are necessary for the detection of crime or the capture of persons who are believed to have committed crimes of a serious character, the warden and county attorney aforesaid may authorize any constable or other person, to perform these services and shall certify upon the account to be rendered by the constable or other person what they deem a reasonable allowance to be paid to the person employed, and the amount so certified shall be allowed to such person in the accounts in respect of the administration of justice, and shall be paid in the first instance by the county, and one-half thereof shall be repaid to the county by the Province. 48 V. c. 18, s. 1.

(2) No allowance shall in any other case be made hereunder to any salaried constable or other officer, unless the constable or officer is entitled to receive for his own use in addition to his salary, the fees earned by him. 48 V. c. 18, s. 2.

(3) Where the Warden and County Attorney aforesaid deem necessary or expedient, they may direct the treasurer of the county to advance to the constable or other person, such sum or sums from time to time as they may name, for the purpose of paying the reasonable and necessary expenses incurred or to be incurred by such constable or other person in the performance of the special services aforesaid; and the treasurer of the county shall pay such sum or sums upon the written order of

Advances to Constables, etc., for special services.

the warden and county attorney, and shall deduct the amount thereof from the subsequently certified account of the constable or other person employed. 49 V. c. 16, s. 44.

Application of this section. (4) This section shall not apply to services in a city or separated town for which there is a staff of salaried police officers.

Allowance in case of prolonged sittings.

13. Where any sittings of the High Court, County Court, or General Sessions of the Peace is continued after eight o'clock in the evening, an additional allowance, not exceeding one day's pay, may, upon the certificate of the presiding Judge, be made to any officer in attendance upon such Court who is paid for services by a per diem allowance. 48 V. c. 13, s. 32.

[As to return of fees by Clerks of the Peace, see Cap. 79, s. 17.]

SCHEDULE.

(Section 2.)

TABLE OF FEES TO BE RECEIVED BY SHERIFFS, CORONERS, CLERKS OF THE PEACE, CONSTABLES AND CRIERS :

SHERIFFS.

1. Attending the Assizes, <i>per diem</i>	\$5 00
2. Attending the General Sessions, <i>per diem</i>	5 00
Attending the General Sessions <i>per diem</i> , to the Sheriff of the County of York or the City of Toronto.....	4 00
3. Summoning each Grand Jury for the Assizes or General Sessions	12 00
4. Summoning each Petit Jury for the Assizes or General Sessions	24 00
5. For every prisoner discharged from gaol, having been committed by warrant for trial at the Assizes or General Sessions	1 00
6. For the discharge from gaol of every prisoner convicted by a Police or Stipendiary Magistrate under R. S. C. c. 176.....	1 00
7. Bringing up each prisoner for arraignment, trial and sentence—in all, for each prisoner, whether convicted or acquitted.....	2 00
8. Drawing calendar of prisoners for trial at the Assizes, including copies	5 00
9. Advertising the holding the Assizes.....	4 00
10. “ “ the General Sessions.....	4 00
“ “ “ “ to the Sheriff of the County of York or the City of Toronto.....	2 00
11. Every Annual or General Return, required by law or by the Government, respecting the Gaol or the Prisoners therein..	5 00
12. Every other Return made to the Government	4 00
13. Every return made to the Legislature	4 00
14. Every Return to the Sessions required by Statute or by order of the Court.....	2 00

15. Drawing calendar of prisoners for trial at the General Sessions, including copies	\$4 00
Drawing calendar of prisoners for trial at the General Sessions, including copies, to the Sheriff of the County of York or the City of Toronto	3 00
16. Returning Precepts to the Assizes or Sessions	4 00
17. Conveying prisoners sentenced at Assizes or Sessions, to the Penitentiary or Reformatory, or to another county (exclusive of disbursements), for each day necessarily employed	6 00
18. Arrest of each individual upon a warrant, (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	3 00
“ “ “ To the Sheriff of the County of York or the City of Toronto	2 00
19. Serving subpoena upon each person, (<i>to be paid out of the County funds or by the party, as the case may be</i>)	1 00
“ “ “ To the Sheriff of the County of York or the City of Toronto	50
20. Travelling in going to execute warrant or serve subpoena, or in returning with a prisoner in the case of the sheriffs of the counties mentioned in section 11, <i>per mile actually travelled</i>	10
Other sheriffs	13
<i>(To be paid out of the County funds, or by the party, as the case may be)</i>	
<i>(Where the service has not been effected, the Board of Audit is to be satisfied that due diligence has been used.)</i>	
21. Conveying prisoners on attachment, Judge's Order or <i>Habeas Corpus</i> to another county, exclusive of disbursements, where no charge allowed by law, for each day necessarily employed, (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	6 00
22. Making return upon attachment or writ of <i>Habeas Corpus</i> , (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	2 00
23. Levying fines or issues on recognizances estreated, or other process (<i>to be levied under section 5 of Rev. Stat. c. 83</i>)	\$5 per \$100 on the first \$400 of the sum levied, exclusive of mileage at 10 cents per mile, and on all sums above \$400 the same allowance as on executions in civil proceedings.
24. Carrying into execution the sentence of the Court in capital cases	<i>All such sums as are unavoidably disbursed, to be taxed by the Court or Judge who passed the sentence.</i>
25. Attending and superintending the execution in such cases	20 00
26. Summoning each Constable to attend the Assizes or General Sessions (exclusive of mileage at 10 cents a mile)	50
27. Keeping a Record of Jurors who have served each Court	2 00
28. All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary or Reformatory, to any other county or elsewhere, or for other purposes in the discharge of the duties of his office (where not provided for by law, nor hereinbefore specifically provided); to be rendered in account in detail, with proper vouchers, to the satisfaction of the Board of Audit, and to be by the Board allowed	
29. Keeping a record of constables at the Assizes or Sessions, each.	2 00
R. S. O. 1877, c. 84, Sched. "Sheriffs;" 44 V. c. 8, s. 4; 45 V. c. 11, s. 6; 47 V. c. 10, ss. 13, 15.	

For services in the County Judge's Criminal Court.

30. Notification to judge, in all for each prisoner.....	\$1 00
31. Bringing up prisoner before judge, to elect as to mode of trial, including attendance at court. each person	2 00
32. Bringing up prisoner for arraignment on trial, and for sentence, including attendances at Court—in all for each prisoner, whether convicted or acquitted.....	2 00
33. For serving subpoenas, arrest under warrant, travel to serve or execute a process, and conveying prisoner to Penitentiary or Reformatory—the like sum as is allowed for like services in other cases under this Act.	
R. S. O. 1877, c. 84, Sched. "Sheriffs;" 45 V. c. 11, ss. 7, 8.	

For services in connection with offenders sentenced, or liable to be removed to the Central Prison.

34. For making special return of prisoners sentenced to Central Prison, and of such prisoners eligible for removal to Central Prison, as the Inspector may direct (each prisoner).....	1 00
<i>(No more than \$5 to be allowed for any one return, and each return must cover all prisoners in gaol when the same is made.)</i>	
35. Certified copy of sentence	50
36. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty	1 00

For other services.

37. Return and services in respect of inquisition on body of a prisoner dying in gaol.....	4 00
38. For general supervision over the gaols and prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage, per quarter.....	25 00
39. For every prisoner discharged from gaol other than prisoners committed by warrant for trial at the Assizes or general Sessions	1 00
40. For services performed under R. S. C. c. 181, s. 32, in each case disposed of under that Act.....	2 00
41. For each day's attendance at an adjournment of the County Judge's Criminal Court, in each case	2 00
Provided that the Sheriff shall not be allowed more than \$4 in respect of the same day's service.	

R. S. O. 1877, c. 84, Sched. "Sheriffs;" 45 V. c. 11, ss. 9
48 V. c. 13, s. 28.

CORONERS.

1. Precept to summon Jury.....	50
2. Empanelling a Jury.....	1 00
3. Summons for witnesses each	25
4. Information or examination of each witness	25
5. Taking every recognizance.....	50

6. Necessary travel to take an inquest, per mile.....	\$ 20
7. Taking inquisition and making return.....	4 00
8. Every warrant	1 00
R. S. O. 1877, c. 84, Sched. "Coroners."	

CLERKS OF THE PEACE.

1. For drawing Precept to summon the Grand and Petit Jury, attending Justices to sign same, and transnitting to the Sheriff.....	4 00
2. Attending each General Sessions.....	6 00
3. Making up Record of each General Sessions	10 00
4. Notice of every appointment of a constable, under Rev. Stat. c. 82, or other officer appointed by the Justices in Sessions, and notice of any order made by the General Sessions, when required to be notified to any person or party	20
5. Subpoena (<i>to be paid out of the county funds or by the party applying, as the case may be</i>)	50
6. Bench Warrant.....	1 00
7. Every recognizance of the peace for good behaviour.....	1 00
8. Discharging the same	50
9. Making up estreats of each session. (<i>See Rev. Stat. c. 88, s. 7</i>)	1 00
10. Every allowance of certiorari, (<i>to be paid by the party applying</i>)	1 00
11. Furnishing to sheriff and coroners revised lists of constables, whenever ordered to be done by the Justices in General Sessions	1 00
12. Reading any statute or public proclamation when required to be done by law.....	25
13. Copies of depositions or examinations furnished to prisoners, defendants, or their counsel, when required (<i>to be paid out of the county funds, or by the party applying, according to the nature of the case,</i>) per folio of 100 words	05
14. Receiving, filing and reading each presentment of the grand jury.....	50
15. For copy thereof forwarded to the Government, or to the county council, when directed by the General Sessions....	50
16. Arraigning each prisoner or defendant indicted, (<i>to be paid out of the county funds, or by the party applying, as the case may be</i>)	50
17. Empanelling and swearing the jury in every case, whether criminal or otherwise, where by law a trial by jury is to be had at the General Sessions, and where no fee is fixed by statute, (<i>to be paid out of the County funds, or by the party, as the case may be</i>).....	50
18. Swearing each witness upon any trial by a jury, or to go before the grand jury, (<i>to be paid out of the county funds or by the party, as the case may be</i>).	20
19. Filing each exhibit on a trial, (<i>to be paid out of the county funds, or by the party, as the case may be</i>)	08
20. Every subpoena ticket, or copy of subpoena, when necessary, (<i>to be paid out of the county funds, or by the party applying, as the case may be</i>).....	20

21. Charging the jury with the prisoner or defendant, upon each indictment, (<i>to be paid out of the county funds, or by the party, as the case may be</i>)	\$1 00
22. Receiving and recording each verdict of a petit jury, in any case of trial by jury, (<i>to be paid out of the county funds, or by the party, as the case may be</i>).....	50
23. Recording each judgment or sentence of the Court upon a verdict or confession, (<i>to be paid out of the county funds, or by the party, as the case may be</i>)	50
24. Making out and delivering to the sheriff a calendar of the sentences at each Court	1 00
25. Certified copy of sentences sent with the prisoners to the penitentiary or reformatory, after each Session	50
26. Making up record of conviction or acquittal, in any case where it may be necessary, (<i>to be paid out of the county funds, or by the party applying, as the case may be</i>), per folio of one hundred words	10
27. Every copy or extract of a record or paper of any kind, required to be made by law, or by order of the Justices in Session, or for the information and use of the Government, when required, and where no charge is fixed by law—if the same is less than 10 folios of one hundred words each, (<i>to be paid out of the county funds or by the party applying, as the case may be</i>)	1 00
28. If above 10 folios, then for each folio, (<i>do</i> <i>do</i>)	10
29. Discharging any prisoner by proclamation.....	50
30. Drawing bill of costs, including taxation and filing the same where necessary to be made and filed, as in cases of assault, nuisances or the like, and in Appeals, (<i>to be paid by the party</i>).	50
31. Drawing out and taking each recognizance to appear, either of prosecutor, defendant or witness, (<i>to be paid out of the county funds or by the party, as the case may be</i>)	50
32. Calling parties on their recognizance, and recording their non-appearance, for each person called, (<i>only to be charged where the parties do not answer, and to be paid out of the county funds or by the party, as the case may be</i>).....	25
33. Drawing order of the Sessions or Judge to estreat and put in process, (<i>on the whole list</i>)	50
34. Entering any order of Sessions, or of the Judge who presided at the Sessions, to remit any estreat, and recording an entry of the same, (<i>to be paid out of the County funds or by the party relieved, as may be ordered</i>)	25
35. Entering and extracting upon a Roll in duplicate, the fines, issues, amerciaments, and forfeited recognizances, recorded in each Session, making oath to the same, and transmitting to the sheriff	2 00
36. Making out and delivering to the sheriff the writ of execution and <i>capias</i> thereon	50
37. Making out and certifying copy of roll and return of the sheriff, and transmitting it to the Provincial Treasurer. (<i>See Rev. Stat. c. 88, s. 16</i>)	1 00
38. Making up book of Orders of Sessions, declaring the limits of the Division Courts, and entering the times and places of holding the Courts	1 00

39. Making out and transmitting a copy thereof to the Government.	\$1 00
40. Making out and transmitting copies (with letter) to the clerk of each Division Court, of the divisions made by the General Sessions	1 00
41. Drawing orders of Sessions for altering the limits of Division Courts.....	1 00
42. Making out and transmitting copies of such orders to the Government	50
43. Making out and transmitting copies of such orders to each Division Court affected by the alteration	50
44. For each copy of Schedule of the Division Courts, with the order of Sessions, for publication	50
45. For every search under three years, (<i>to be paid by the party making the search</i>).....	20
46. For the same, extending over three years, (<i>do do</i>).	50
47. For every certificate required of proof of a deed, (<i>to be paid by the party applying for the same</i>).....	1 00
48. For every other certificate required by law, or by order of the Sessions, to be given, where the same is under five folios, (<i>to be paid out of the county funds, or by the party applying for the same, according to the nature of the case</i>)	50
49. For the same, if more than five folios, per folio (<i>do do</i>).	10
50. Copying orders of Court, and causing same to be published, where it is requisite, for each order, exclusive of the expense of publication.....	50
51. Receiving and filing affidavit of bastardy, (<i>see Rev. Stat. c. 138, s. 3</i>) (<i>to be paid by the party producing it</i>)	25
52. Receiving and filing each tender for any public work, or supply, or printing, or other service.....	25
53. Making out a list of the several tenders on each occasion, as they are opened, specifying the names, prices, and other particulars, and filing the same, when required to be done by the Justices	50
54. Drawing bonds or agreements for the delivery of articles, or for doing the work for the gaol or other county purposes, and attending execution, when required by the Justices.....	1 00
55. Receiving and filing accounts and demands, preferred against the county, numbering them, and submitting them for audit, and making out the cheques.....	4 00
56. Making out and delivering lists of orders on the treasurer, made at each audit.....	2 00
57. Making out and transmitting to the Provincial Treasurer, a return or schedule of all convictions, (<i>see Rev. Stat. c. 76 s. 7</i>), which have taken place before any Justice or Justices, or before the court, each list	1 00
58. For every report or return required by statute, or by the Government, where no remuneration has been provided by this table or by statute	1 00
59. Making out and transmitting a return to the Government of Justices and Coroners who have taken the oaths, when required to be done, for each return.....	1 00

60. Drawing every special order of the Court of General Sessions, necessary to be communicated to any party, and entering it on record	\$ 50
61. Letter, and transmitting or delivering to the party interested or affected thereby.....	25
62. Swearing each party to an affidavit, where no charge is elsewhere provided for it, <i>(to be paid out of the county funds, or by the party for whom the affidavit is sworn, according to the nature of the case)</i>	20
63. Causing notice to be published of any special or adjourned Sessions, when directed by the chairman of the General Sessions, or other two Justices, so to do; exclusive of the amount paid the printer for publication.....	1 00
64. Sending notice of any such Session to the Justices individually, when it is directed by the chairman, or other two Justices—for each notice.....	10
65. Attending each adjourned or special Sessions, and making up record thereof.....	2 50
66. Receiving and filing notices of Appeal, and the Appeal from any judgment or conviction by one or more Justices, where an Appeal to the General Sessions is given by law, <i>(to be paid out of the county funds, or by the party appealing, as the case may be)</i>	25
67. When the appeal called on, reading the conviction, notice of appeal, and recognizance, <i>(to be paid out of the county funds, or by the party appealing, as the case may be)</i>	50
68. For all other services upon the trial of such Appeal case, when tried by a jury, including the receiving and recording the verdict <i>(to be paid out of the county funds, or by the party, as the case may be)</i> ,.....the same charges as in ordinary criminal trials	
69. Issuing Process to enforce the order of the Court in an Appeal case, <i>(to be paid out of the county funds, or by the party, as the case may be)</i>	1 00
70. Making out warrant of distress or commitment, in any case where no fee is specially assigned therefor in any Statute, or in this Table	1 00
71. Drawing certificate of approval by the Justices in Sessions, of sureties tendered by the sheriff, <i>(to be paid by sheriff)</i>	50
72. Administering oaths to any public officer, when authorized so to do, <i>(to be paid by the officer)</i>	25
73. Receiving and filing each oath of qualification of a Justice of the Peace	25
74. For every letter written to the Government, every letter written by direction of the chairman, or of the Justices in Session, or Board of Audit, to Justices, Coroners, or constables, or others, upon special business connected with the Administration of Justice, or County purposes	25
75. For distributing the Statutes to the Justices and county officers, or others, when directed by Statute or the Government so to do, and taking receipts therefor from each Justice or officer.	10

76. For accounting to the County Member for the copies of Statutes not called for by the Justices and county officers, and delivering the same to him, wherever such duty is required by Statute, or by the Government and no other fee allowed ..	\$1 00
77. For procuring and supplying to clergymen and ministers all books and forms required under Rev. Stat. c. 131, s. 18, for each book with the necessary set of forms	25
78. For receiving and filing Voters' Lists under Rev. Stat. c. 8, ss. 16 and 17, each list	25
79. For filing each list, return, or other paper, where no charge is specially provided for, except accounts and claims against the county, and papers connected with matters to be charged against private individuals, (<i>to be paid out of the county funds, or by the party for whom the service is rendered, according to the nature of the case</i>)	08

For services in County Judge's Criminal Court.

80. Attending and service in Court, and making all necessary entries for each prisoner brought before the Judge, and not consenting to be tried—in all	50
81. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction for each prisoner	2 00
82. Preparing Judge's warrant to bring up the body of prisoner, and delivering the same to sheriff—for each prisoner	50
83. Issuing writ of summons to witness when necessary	40
84. Copy of Summons, each	20
85. Warrant of remand, when issued and delivered to Sheriff	50
86. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same. ... (<i>the same fees as allowed for like services at the General Sessions of the Peace.</i>) (R. S. O. 1877, c. 84, Sched. "Clerks of the Peace.")	

CONSTABLES.

1. Arrest of each individual upon a warrant, (<i>to be paid out of the county funds, or by the party, as the case may be.</i>)	1 50
2. Serving summons or subpoena, (<i>to be paid out of the County funds, or by the party, as the case may be.</i>)	25
3. Mileage to serve summons, subpoena or warrant, (<i>to be paid out of the county funds, or by the party, as the case may be.</i>) ..	10
4. Do. when service cannot be effected, upon proof of due diligence, (<i>do. do.</i>)	10
5. Do. taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance	10
6. Attending Justices on summary trials, or on examination of prisoners charged with crime, for each day necessarily employed in one or more cases, when not engaged more than four hours	1 00

7. Do. when engaged more than four hours.....	\$1 50
8. Attending Assizes or Sessions each day.....	1 50
9. Mileage travelling to attend Assizes, Sessions, or before Justices, (when public conveyance can be taken, only reasonable disburse- ments to be allowed)	10
10. Summoning jury for coroner's inquest, including attending at inquest, and all services in respect thereof, if held on same day as jury summoned.....	2 00
11. Attending each adjournment thereof, if not engaged more than four hours.....	1 00
12. Do. if engaged more than four hours.....	1 50
13. Serving summons or subpoena to attend before coroner, (Subject to No. 10).....	25
14. Mileage serving same.....	10
15. Exhuming body under coroner's warrant.....	2 00
16. Reburying same.....	2 00
17. Serving distress warrant, and returning same.....	1 50
18. Advertising under distress warrant.....	1 00
19. Travelling to make distress, or to search for goods to make dis- tress, when no goods are found.....	10
20. Appraisements, whether by one appraiser or more,.....two cents in the dollar on the value of the goods.	
21. Catalogue sale and commission, and delivery of goods.....five cents in the dollar on the net produce of the goods.	
22. Executing search warrant.....	1 50
23. Serving notices on constables, when personally served..... (R. S. O. 1877, c. 84, Sched. "Constables.")	50

CRIERS.

1. Making proclamation for opening or adjourning the Court of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery and General Sessions.....	20
2. Making every other proclamation.....	20
3. Calling and swearing grand jury.....	50
4. Calling and swearing every petit jury.....	50
5. Calling and swearing every witness or constable.....	10
6. Attending Assizes and General Sessions, <i>per diem</i> (R. S. O. 1877, c. 84, Sched. "Criers.")	1 00

CHAPTER 84.

An Act regulating the Payment by Counties of certain Expenses of Criminal Justice.

FEES UNDER REV. STAT. c. 83, PAY-
ABLE BY COUNTIES IN THE FIRST
INSTANCE, EXCEPT WHERE FOR
SERVICES FOR THE PRIVATE BENE-
FIT OF INDIVIDUALS, s. 1.

COSTS OF PROSECUTIONS FOR FELONY,
ss. 2, 3.

COSTS OF PROSECUTIONS FOR MISDE-
MEANOURS, s. 4.

BOARD OF AUDIT FOR AUDITING AC-
COUNTS AGAINST COUNTIES, ss.
5-11.

ORDER OF PAYMENT OF CLAIMS
AGAINST COUNTIES, s. 12.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. All fees payable under chapter 83 of these Revised Statutes to the officers therein mentioned, on services in the nature of a civil remedy, for individuals at whose instance and for whose private benefit the same are performed, shall be paid by such individuals, and except as herein or otherwise provided by law, all other fees payable to said officers for services connected with the administration of justice or county purposes, shall be paid, in the first instance, out of the county funds; and the counties paying the fees shall be entitled to be reimbursed, out of the consolidated revenue fund, the amount of such of said fees as are payable out of said Fund under the provisions of *The Act respecting the Expenses of the Administration of Justice in Criminal matters.* Fees payable by Counties, except fees for services for private benefit of individuals. Rev. Stat. c. 86.
R. S. O. 1877, c. 85, s. 1.

2. Where any person is prosecuted or tried for felony and convicted or acquitted, or otherwise discharged, the costs of the prosecution, when not otherwise provided by law, shall be paid out of the county funds. In cases of felony, costs to be paid out of the County funds. R. S. O. 1877, c. 85, s. 2.

3. In case a person is charged with felony, every officer of the Court before which such person is tried, or any proceeding had with regard to the charge, and who renders any official services in the matter of the charge, or in the course of the trial, to the person so charged with felony, shall be paid his lawful fees for all such services out of the county funds, in In cases of felony, fees for services to person charged to be paid from the County funds.

the same manner as other fees due and payable to them in respect of official services by them rendered to the Crown in the conduct of public prosecutions, and no such fees shall in any case be demanded of or be payable by the person charged with the felony. R. S. O. 1877, c. 85, s. 3.

By whom costs in prosecution for misdemeanour to be paid.

4 In case a person is convicted before a Court of General Sessions of an assault and battery, or other misdemeanour, such person shall pay such costs as may be allowed and taxed by the Court; but in case a defendant is acquitted, the costs of the prosecution, when not otherwise provided by law, shall be paid out of the county funds. R. S. O. 1877, c. 85, s. 4.

Accounts against County to be audited by a Board of Audit.

Rev. Stat. c. 85.

5. Subject to the provisions of *The Act Respecting Criminal Justice Accounts payable by the Province*, all accounts and demands preferred against the county the approving and auditing whereof before the 19th day of December, 1868 belonged to the Quarter Sessions, shall be audited and approved by the board of audit, hereinafter mentioned, of the county. R. S. O. 1877, c. 85, s. 5.

Accounts to be sent to Clerk of Peace quarterly.

6. Such accounts and demands shall be delivered to the Clerk of the Peace of the county on or before the first days of the months of January, April, July and October, in every year. R. S. O. 1877, c. 85, s. 6.

Accounts, how and when audited.

7. Such of the said accounts and demands as have been so delivered shall be audited by a board of audit, composed of the Judge, or Junior or Acting Judge, of the County Court, and two other persons, who shall be appointed annually for that purpose by the county council of the county or union of counties, not more than one of such persons being a member of the county council for the time being, and the accounts and demands shall be taken into consideration by the board of audit between the first and fifteenth days of the months of January, April, July and October, in each and every year, and disposed of as soon as practicable; and the board shall, at the completion of the audit, so to be made in the month of October, make a report to the council of any irregularity in the accounts presented to them, or of any claim that may be made contrary to law, or of any other matter which the auditors may consider ought to be brought under the notice of the council. 47 V. c. 13, s. 1.

Report by auditors.

Duties of Clerk of the Peace at audit.

8. The clerk of the peace shall convene the board of audit on the direction of the Judge of the County Court, for the purpose of submitting to the board the accounts lodged with him and shall attend the audit, record the proceedings thereat and carry out the orders of the board in respect of the same, as formerly done by him at and after Session audits. R. S. O. 1877, c. 85, s. 8.

9. All orders or cheques of the board of audit, except for the payment of constables or services rendered during the sitting of the Court of General Sessions, shall express the Act, if any, under which the expenditure is authorized. R. S. O. 1877, c. 85, s. 9.

Orders or cheques given to specify Act authorizing payment.

10. The treasurer of the county shall furnish the board of audit with a copy of the items disallowed by the Provincial Treasurer in the criminal justice accounts of the previous quarter, and the board shall have power, in their discretion, to deduct the amounts so disallowed from the next, or any accounts of the same officers submitted for audit. R. S. O. 1877, c. 85, s. 10.

Items disallowed by Prov. Treas. may be deducted from next accounts.

11. The board shall also have power to direct the treasurer to defer payment of any account, or any item in any account, connected with criminal justice, payable out of the Consolidated Revenue Fund of the Province, of which they may have doubt either as to the liability of the Province or the correctness of the amount charged, until the decision of the Provincial Treasurer as to the correctness or allowance of the said account or item, has been notified to the county treasurer. R. S. O. 1877, c. 85, s. 11.

Doubtful items in accounts.

12. The treasurer of every county shall, without further authority, pay the amount of the fees which are payable out of county funds, when duly allowed by the board of audit, in the following order, and in preference to all other charges unless otherwise provided by law—that is to say, after the expenses of levying and collecting and managing the rates and taxes imposed in the county are paid ;

County Treasurer's duty.

Order of payment of accounts.

1. All sums of money payable to the sheriff, coroner, gaoler, surgeon of the county gaol, or to any other officer or person, for the support, care or safe keeping of the prisoners in the county gaol, or for the repairing and maintaining of the court house or gaol ;

2. The accounts of public officers and officers of the Court of General Sessions ;

3. All sums of money payable for any other purpose whatever connected with the administration of justice within the county ;

4. All other sums of money allowed by the board of audit in the order in which the same were allowed. R. S. O. 1877, c. 85, s. 12.

CHAPTER 85.

An Act respecting Criminal Justice Accounts payable by the Province.

APPOINTMENT OF AUDITORS, s. 1.
 AUDIT BY COUNTY AUDITORS, ss. 2, 3.
 AUDITOR APPOINTED UNDER s. 1.
 Duties, ss. 4, 10.
 Delivery of accounts to, s. 5.
 Form of account, ss. 6, 8.

Constables' accounts to be certified,
 s. 7.
 Powers, s. 9.
 TRANSMISSION OF ACCOUNTS TO CLERK
 OF CRIMINAL JUSTICE ACCOUNTS,
 s. 11.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Auditors of
 accounts
 payable by
 Province.

1. The Lieutenant-Governor in Council may appoint a Deputy Clerk of the Crown of any county, or some other public officer resident in the county town of the county to be the Auditor of those accounts relating to the administration of Justice in the county, for which the Province is liable. 49 V. c. 18, s. 1.

Audit of cer-
 tain items by
 County
 auditor dis-
 pensed with.
 Rev. Stat.,
 cc. 84, 86.

2. Where such an appointment is made it shall not be requisite for the Auditors appointed under *The Act regulating the payment by Counties of certain Expenses of Criminal Justice*, to approve or audit any accounts in respect of items set out in the schedule appended to *The Act respecting the Expenses of the Administration of Justice in Criminal Matters*, under any of the following headings: sheriff, coroner, clerk of the peace, and crier;

Nor in respect of the items under the heading of constables where the accounts rendered under these headings are in respect of offences belonging to any of the following classes:

(a) Offences for which the parties charged had been committed or held to bail for trial at the Assizes or General Sessions.

R. S. C. c. 176.

(b) Offences for which the parties charged had been convicted before a police and stipendiary Magistrate, under *The Summary Trials Act*.

Nor in respect of fees to gaol surgeons under the heading "Other Matters" in the said schedule. 49 V. c. 18, s. 2.

3. All other accounts in connection with the administration of civil or criminal justice which, under chapters 83 and 84 of these Revised Statutes or otherwise, are paid out of the county funds, shall continue to be audited by the county board of auditors of the county. 49 V. c. 18, s. 3.

Audit by
County
auditors.

4. When such an appointment as aforesaid is made, all services heretofore performed by the board of audit provided for under section 2 of *The Act respecting the Expenses of the Administration of Justice in Criminal Matters*, in respect of the approving and auditing of accounts relating to the administration of justice, and in respect of the auditing of accounts of the county attorney, for which the Province is liable, shall thereafter be performed by the auditor so appointed as aforesaid; the auditor so appointed shall, so far as the auditing of the above-mentioned accounts is concerned, be substituted for the board of audit, wherever the said board is mentioned or referred to in the said Act. 49 V. c. 18, s. 4.

Accounts
which are to
be audited by
Auditor
appointed
under s. 1.
Rev. Stat.
c. 86.

5. All accounts and demands to be audited by the said auditor shall be delivered in duplicate to the said auditor, on or before the tenth day of every month and shall include all demands of the person rendering the same up to the last day of the preceding month, care being taken that one month's account does not run into another. 49 V. c. 18, s. 5.

When
accounts to be
delivered to
auditor.

6. Each account shall be rendered in duplicate in the form shewn in the Schedule hereto, or in such other form as the Lieutenant-Governor in Council may from time to time prescribe, and shall be verified by the oath of the party (sworn before a justice of the peace, which oath shall be administered without charge), that the amount is correct in every particular, and whenever mileage is charged the places from and to which the mileage is reckoned, and also the number of miles shall be mentioned; in no case shall more than the actual number of miles travelled be allowed, nor where the service is by a sheriff's officer a greater number of miles than the distance from the court house to the place of service, and the separate items in such account shall be numbered in order. 49 V. c. 18, s. 6.

Form of
account.

7. Every account of a constable shall be certified by the justice or coroner under whose direction the constable acted. 49 V. c. 18, s. 7.

Constable's
accounts to be
certified.

8. Forms of account, in accordance with the Schedule hereto, or such other forms as may be prescribed by the Lieutenant-Governor in Council, shall be provided by the county, and shall be furnished by the county treasurer to the officers requiring them on their applying therefor. 49 V. c. 18, s. 8.

Forms to be
provided by
county.

9. The auditor shall have power to call upon the claimant for any information that may be required in connection with

Powers of
auditor.

I hereby certify that the above services were duly performed by Constable under my directions, and that the said prisoner was committed by me for trial at the assizes (*or, as the case may be*).

F. G.,
Justice of the Peace for the above County.

(*Affidavit on back.*)

County of) I of make oath and
To Wit ;) in the county of say :—

- (1) That the within account of services performed by me is true in every particular.
- (2) That I have not been paid any portion of the charges, nor has any other person to my knowledge received payment for me or on my behalf, nor has any other person to my knowledge rendered a similar account for the same services.
- (3) That to perform the said services I necessarily travelled the distances in the account mentioned.*

Sworn before me at in the County of
this day of A. D. 18 .

[*Where special explanations are given, add: (4) "and that the explanatory statements written upon the said account are true in every particular."]

Endorsement on back of Account.	January, 18	County of Grey.	Account of A.B.,	Constable.
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CHAPTER 86.

An Act respecting the Expenses of the Administration of Justice in Criminal Matters.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Payment of expenses of criminal justice.

1. Such of the expenses of the Administration of Criminal Justice in this Province as are mentioned in the Schedule to this Act shall be paid out of the Consolidated Revenue Fund of the Province. R. S. O. 1877, c. 86, s. 1.

Accounts to be audited in such manner as the Lieut.-Governor in Council appoints. Rev. Stat. c. 85.

2. Subject to the provisions of *The Act respecting Criminal Justice Accounts payable by the Province*, all accounts of or relative to the said expenses shall be examined, audited, vouched, and approved under such regulations as the Lieutenant-Governor in Council, from time to time directs and appoints. R. S. O. 1877, c. 86, s. 2.

SCHEDULE.

SCHEDULES

1. Attending the Assizes. (*See Tariff, R. S. O. c. 83, Schedule, item 1.*)
2. Attending the General Sessions. (*Tariff, item 2.*)
3. Summoning each Grand Jury for the Assizes or General Sessions. (*Tariff, item 3.*)
4. Summoning each Petit Jury for the Assizes or General Sessions. (*Tariff, item 4.*)
5. For every Prisoner discharged from Gaol, having been committed by Warrant for trial at the Assizes or General Sessions. (*Tariff, item 5.*)
6. For the discharge from Gaol of every Prisoner convicted by a Police or Stipendiary Magistrate under 38 V. c. 47, D. (*Tariff, item 6.*)
7. Bringing up each Prisoner for arraignment, trial and sentence, whether convicted or acquitted. (*Tariff, item 7.*)
8. Drawing Calendar of Prisoners for trial at the Assizes, including copies. (*Tariff, item 8.*)
9. Drawing Calendar of Prisoners for trial at the General Sessions, including copies. (*Tariff, item 15.*)
10. Advertising the holding of the Assizes or General Sessions. (*Tariff, items 9 & 10.*)
11. Every Annual or General Return, required by law, or by the Government, respecting the Gaol or the Prisoners therein. (*Tariff, item 11.*)
12. Every other Return made to the Government or the Legislature or to the Sessions, required by statute or by order of the Court. (*Tariff, items 12, 13, & 14.*)

13. Returning Precept to the Assizes or General Sessions. (*Tariff, item 16.*)

14. Conveying Prisoners to the Penitentiary or Reformatory, or to another County, and disbursements. (*Tariff, item 17.*)

15. Arrest of each individual upon a Warrant (*if payable by the Crown*) (*Tariff, item 18.*)

16. Serving Subpœna upon each person, (*if payable by the Crown*)—(*Tariff, item 19.*)

17. Travelling in going to execute Warrant or serve Subpœna, and in returning with Prisoner, (*if payable by the Crown*). (*Tariff, item 20.*)

18. Conveying Prisoners on Attachment, Judge's order or *Habeas Corpus*, to another County, and disbursements, (*if payable by the Crown*). (*Tariff, item 21.*)

19. Making return upon Attachment or Writ of *Habeas Corpus*, (*if payable by the Crown*)—(*Tariff, item 22.*)

20. Levying Fines or Issues on Recognizances estreated, and mileage—(*Tariff, item 23.*)

21. Disbursements in carrying into execution the sentence of the Court in capital cases—(*Tariff, item 24.*)

22. Attending and superintending the Execution in such cases—(*Tariff, item 25.*)

23. Summoning each Constable to attend the Assizes or General Sessions—(*Tariff, item 26.*)

24. Keeping a Record of Jurors who have served at each Court—(*Tariff, item 27.*)

25. All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary or Reformatory, or to any other County or District or elsewhere, or for other purposes in the discharge of the duties of his office (when not otherwise provided for), to be allowed by the Board of Audit—(*Tariff, item 28*)

(R. S. O. 1877, c. 86, Sched. "Sheriff"; 44 V. c. 8, s. 4; 45 V. c. 11, ss. 11 & 14.)

For services in the County Judge's Criminal Court.

26. Notification to Judge—(*Tariff, item 30.*)

27. Bringing up prisoners before Judge to elect as to mode of trial, including attendance at Court. (*Tariff, item 31.*)

28. Bringing up prisoner for arraignment on trial and for sentence including attendances at Court—(*Tariff, item 32.*)

29. Serving subpoenas, arrest under warrant, travel to serve or execute process, and conveying prisoners to Penitentiary or Reformatory, (*where payable by the Crown*)—(*Tariff, item 33.*)

R. S. O. 1877, c. 86, Sched. "Sheriff"; 45 V. c. 11, ss. 12, 13.

For services in connection with offenders sentenced, or liable to be removed to the Central Prison.

30. Making special return of prisoners sentenced to Central Prison, and of such persons eligible for removal to Central Prison, as the Inspector may direct—(*Tariff, item 34.*)

31. Certified copy of sentence—(*Tariff, item 35.*)
32. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty—(*Tariff, item 36.*)
33. For general supervision over the gaol and prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage, per quarter. (*Tariff, item 38.*)
R. S. O. 1877, Sched. "Sheriff"; 45 V. c. 11, s. 15.
34. For every prisoner discharged from gaol other than prisoners committed by warrant for trial at the Assizes or General Sessions—(*Tariff, item 39.*)
35. For services performed under R. S. C. c. 181, s. 32—(*Tariff, item 40.*)
36. For each day's attendance at an adjournment of the County Judge's Criminal Court.—(*Tariff, item 41.*) 48 V. c. 13, s. 28.

CORONER.

1. Precept to summon Jury—(*Tariff, item 1.*)
2. Empanelling a Jury—(*Tariff, item 2.*)
3. Summons for Witness—(*Tariff, item 3.*)
4. Information or Examination of each Witness—(*Tariff, item 4.*)
5. Taking every Recognizance—(*Tariff, item 5.*)
6. Necessary travel to take an Inquest—(*Tariff, item 6.*)
7. Taking Inquisition and making Return—(*Tariff, item 7.*)
8. Every Warrant—(*Tariff, item 8.*)
(R. S. O. 1877, c. 86, Sched. "Coroner.")

CLERK OF THE PEACE.

1. Drawing precept to summon the Grand and Petit Jury, attending Justices to sign same and transmitting to the Sheriff—(*See Tariff in the Schedule to Rev. Stat., c. 83, item 1.*)
2. Attending each General Sessions—(*Tariff, item 2.*)
3. Making up Record of each General Sessions—(*Tariff, item 3.*)
4. Notice of every appointment of a Constable under Rev. Stat., c. 82, ss. 1 & 4, or other officer appointed by the Justices in Session, and notice of any order made by the General Sessions when required to be notified to any person or party—(*Tariff, item 4.*)
5. Issuing Subpcena, (*if payable by the Crown*)—(*Tariff, item 5.*)
6. Issuing Bench warrant—(*Tariff, item 6.*)
7. Every Recognizance of the Peace for good behaviour—(*Tariff, item 7.*)
8. Furnishing to Sheriff and Coroners revised lists of constables, whenever ordered to be done by the Justices in General Sessions—(*Tariff, item 11.*)
9. Copies of Depositions or Examinations furnished to Prisoners, Defendants, or their Counsel, when required by the party or his Counsel, (*if payable by the Crown*)—(*Tariff, item 13.*)

10. Receiving and filing each Presentment of the Grand Jury—(*Tariff, item 14.*)
11. Arraigning each Prisoner or Defendant indicted, and recording Plea (*if payable by the Crown*)—(*Tariff, item 16.*)
12. Empanelling and swearing the Jury in every case, whether criminal or otherwise, where by law a trial by Jury is to be had at the General Sessions, and when no fee is fixed by statute, (*if payable by the Crown*)—(*Tariff, item 17.*)
13. Swearing each Witness upon any trial by Jury, or to go before the Grand Jury, (*if payable by the Crown*)—(*Tariff, item 18.*)
14. Filing each Exhibit upon a trial, (*if payable by the Crown*)—(*Tariff, item 19.*)
15. Charging the Jury with the Prisoner or Defendant, upon each indictment, (*if payable by the Crown*)—(*Tariff, item 21.*)
16. Receiving and Recording each verdict of a Petit Jury, in any case of trial by Jury, (*if payable by the Crown*)—(*Tariff, item 22.*)
17. Recording each Judgment or Sentence of the Court, upon a verdict or confession, (*if payable by the Crown*)—(*Tariff, item 23.*)
18. Making out and delivering to the Sheriff a Calendar of the Sentences at each Court—(*Tariff, item 24.*)
19. Certified Copy of Sentences sent with the Prisoners to the Penitentiary, or Reformatory after each Session—(*Tariff, item 25.*)
20. Making up Record of Conviction or Acquittal, in any case where necessary, (*if payable by the Crown*)—(*Tariff, item 26.*)
21. Discharging any Prisoner by proclamation—(*Tariff, item 29.*)
22. Drawing out and taking each Recognizance to appear, either of prosecutor, defendant or witness, (*if payable by the Crown*)—(*Tariff, item 31.*)
23. Calling parties on their Recognizance and recording their non-appearance, (*if payable by the Crown*)—(*Tariff, item 32.*)
24. Making out lists of forfeited Recognizances and Fines to submit to the presiding Judge after each Session in order that they may be estreated.—(*Tariff, item 9.*)
25. Entering any Order of Sessions or of the County Judge to remit an estreat and recording an entry of the same, (*if payable by the Crown*)—(*Tariff, item 34.*)
26. Drawing Order of the Judge to estreat and put in process—(*Tariff, item 33.*)
27. Entering and extracting upon a Roll, in duplicate, the Fines, Issues, Amerciaments and forfeited Recognizances recorded in each Session, making oath to the same, and transmitting it to the Sheriff—(*Tariff, item 35.*)
28. Making out and delivering to the Sheriff the Writ of *fieri facias* and *capias* thereon—(*Tariff, item 36.*)
29. Making out and certifying copy of Roll and Return of Sheriff, and transmitting it to Provincial Treasurer—(*Tariff, item 37.*)
30. Making up Books of Orders of Sessions, declaring the limits of the Division Courts, and entering the times and places of holding the Courts—(*Tariff, item 38.*)
31. Making out and transmitting a copy thereof to the Government—(*Tariff item 39.*)

32. Making out and transmitting copies (with letter) to the Clerk of each Division Court, of the Divisions made by the General Sessions—(*Tariff, item 40*).

33. Drawing Orders of Session for altering the limits of Division Courts—(*Tariff, item 41*).

34. Making out and transmitting copies of such Orders to the Government—(*Tariff, item 42*).

35. Making out and transmitting copies of such Orders to each Division Court affected by the alteration—(*Tariff, item 43*).

36. For each Copy of Schedule of Division Courts, with the Order of Sessions for publication—(*Tariff, item 44*).

37. Swearing each party to an Affidavit, when no charge is elsewhere provided for it, (*If payable by the Crown*)—(*Tariff, item 62*).

R. S. O. 1877, c. 86, Sched. "Clerk of the Peace," Items 1-37.

For services in County Judges Criminal Court.

38. Attending and service in Court, and making all necessary entries for each prisoner brought before the Judge, and not consenting to be tried—(*Tariff, item 80*).

39. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction for each prisoner—(*Tariff, item 81*).

40. Preparing Judge's warrant to bring up the body of prisoner, and delivering same to Sheriff—(*Tariff, item 82*).

41. Issuing Writ of Summons to witness—(*Tariff, item 83*).

42. Copy of Summons—(*Tariff, item 84*).

43. Warrant of remand, when issued and delivered to Sheriff—(*Tariff, item 85*).

44. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same—(*Tariff, item 86*).

R. S. O. 1877, c. 86, Sched. "Clerk of the Peace," Items 38-44.

CONSTABLE.

1. Arrest of each individual upon a Warrant, (*if payable by the Crown*)—(*Tariff, item 1*).

2. Serving Summons or Subpoena, (*if payable by the Crown*)—(*Tariff, item 2*).

3. Mileage, (*if payable by the Crown*)—(*Tariff, item 3*).

4. Mileage in going to serve Summons or Warrant when the service has not been effected; the Board of Audit being satisfied that due diligence was used, (*if payable by the Crown*)—(*Tariff, item 4*).

5. Attending Assizes or Sessions—(*Tariff, item 8*).

6. Attending any Justice on summary trials or on the examination of Prisoners charged with any crime—(*Tariff, items 6 & 7*).

7. Taking Prisoners to Gaol, and disbursements necessarily expended in their conveyance—(*Tariff, item 5*).

8. Summoning Jury for Inquest and services at same—(*Tariff, item 10*).
9. Attending Inquest for each day other than the first—(*Tariff, items 11 & 12*).
10. Serving Summons or Subpœna to attend before Coroner—(*Tariff, item 13*).
11. Mileage serving same—(*Tariff, item 14*).
12. Serving notice of appointment of Constables, when personally served—(*Tariff, item 23*).

R. S. O. 1877, c. 86, Sched. "Constable."

CRIER.

1. Making Proclamation for opening or adjourning the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, and General Sessions—(*Tariff, item 1*).
 2. Making every other Proclamation—(*Tariff, item 2*).
 3. Calling and Swearing Grand Jury—(*Tariff, item 3*).
 4. Calling and Swearing every Petit Jury—(*Tariff, item 4*).
 5. Calling and Swearing every Witness or Constable—(*Tariff, item 5*).
 6. Attending Assizes and General Sessions—(*Tariff, item 6*).
- (R. S. O. 1877, c. 86, Sched. "Crier.")

OTHER MATTERS.

1. The maintenance of Prisoners confined upon criminal charges—
The foregoing item shall extend to and include the maintenance of prisoners convicted by police magistrates, under 38 V. c. 47, Statutes of Canada, for indictable offences, and confined upon such conviction in any common gaol within the Province.
2. A proportion of the Salary of the Gaoler of each County Gaol, and of the payment of Turnkeys—
3. Medicines, Fuel and other similar necessities for the Gaol, and the Prisoners confined on criminal charges—
4. Disbursements in transporting Prisoners to the Penitentiary, or Reformatory and for carrying other sentences of the Courts into effect—
5. Fee to Gaol Surgeon for the examination of each prisoner eligible for removal or sentenced to Central Prison.
6. Together with all other charges relating to Criminal Justice payable to the foregoing Officers specially authorized by any Act of the Legislature, and immediately before the ninth of June, 1846, payable out of the County funds.

R. S. O. 1877, c. 86, Sched. "Other Matters;" 46 V. c. 8, s. 1.

CHAPTER 87.

An Act to provide for the Payment of Witnesses for the Crown.

INTERPRETATION, s. 1.
 WITNESSES IN CASES ABOVE DEGREE
 OF MISDEMEANOUR, s. 2.
 CASES IN WHICH JUDGE MAY ORDER
 CROWN WITNESSES TO BE PAID,
 ss. 3-4.
 CERTIFICATE REQUIRED TO OBTAIN
 ORDER, s. 5.
 FORM OF ORDER, ETC., ss. 6, 7.
 PAYMENT BY MUNICIPALITIES, ss. 8, 9.

REIMBURSEMENT BY GOVERNMENT IN
 PART, s. 10.
 WITNESSES FROM UNORGANIZED
 TRACTS, ss. 11, 12.
 WITNESS FEES WHERE RECOVERED
 FROM PARTIES, s. 13.
 FEE TO COUNTY ATTORNEY FOR
 CERTIFICATE, ss. 14, 15.
 MISCELLANEOUS, 16-18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpre-
 tation.

1. In the sections of this Act numbered from 3 to 7 inclusive,

“Court.”

“Court,” shall include the High Court, Courts of Oyer and Terminer, General Gaol Delivery, General Sessions of the Peace, and County Judges’ Criminal Courts. R. S. O. 1877, c. 87, s. 1.

Fees to
 witnesses in
 cases above
 misde-
 meanour.

2. Except as provided in this Act or other Act in that behalf no witness in any cases above the degree of misdemeanour shall be allowed anything for his attendance or travel. R. S. O. 1877, c. 87, s. 2.

In certain
 cases Crown
 witnesses may
 be compens-
 ated for
 attendance on
 prosecution or
 trial.

3. In case of a prosecution or trial for treason or felony, or any offence which is punishable by imprisonment only, or any offence for which whipping may be imposed, the Judge who holds the Court before which the prosecution or trial for the offence takes place, may grant, to any one who attends on recognizance or subpoena, or on the request of the Crown Counsel, to give evidence, or who gives evidence, on the part of the Crown, an order for payment of such sum of money as to the Judge seems reasonable and sufficient to compensate the witness for his costs and charges in attending as such witness; but such sum shall not exceed the amount then payable to the like witnesses in civil cases in the High Court; and no allowance shall be made to any witness who resides in the County Town where the offence is tried, or within one mile thereof, except in the case of medical or indigent witnesses. R. S. O. 1877, c. 87, s. 3.

4. Where no bill of indictment has been preferred, or where the trial has not been proceeded with, the Court may make a similar order in favour of any person who, in the opinion of the Court, *bona fide* attended the Court in obedience to a recognizance or subpoena. R. S. O. 1877, c. 87, s. 4.

5.—(1) The order is not to be made except on a certificate by the Counsel, if any, for the Crown in the case, and by the County Crown Attorney (unless the County Crown Attorney is also the Counsel for the Crown, and certifies as such); and the certificate shall contain the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses and shall be to the like effect: but the Court may require further evidence, and shall have a discretion to grant or refuse the order.

Certificate whereon order to be made.

Discretion as to order.

(2) If the County Crown Attorney is absent, and for this or for some other reason some other person is acting for him, the certificate of the latter may be given instead of the certificate of the County Crown Attorney. R. S. O. 1877, c. 87, s. 5.

Certificate in absence of Crown Attorney.

6. The order may embrace any number of witnesses and any number of cases, or may be for one witness only. R. S. O. 1877, c. 87, s. 6.

Order may include several cases and witnesses.

7. Every order for payment shall be forthwith made out and delivered by the proper officer of the Court, and shall be directed to the treasurer of the county in which the offence was committed, or was supposed to have been committed; or if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R. S. O. 1877, c. 87, s. 7.

Order, how made out and directed.

8. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to the witness, or each of the witnesses named, the amount ascertained by the certificate, on the witness signing a receipt therefor in person. R. S. O. 1877, c. 87, s. 8.

Payment by a Treasurer on whom order made.

9. In case the trial takes place in a county other than the county in which the offence was committed, the treasurer of the county in which the trial takes place, if applied to by the witnesses, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R. S. O. 1877, c. 87, s. 9.

Payment by a Treasurer on whom order is not made.

10. One-third of the amount paid to witnesses under this Act shall be repaid to the municipality out of the Consolidated Revenue Fund of the Province, except as is hereinafter mentioned. R. S. O. 1877, c. 87, s. 10.

One-third to be paid to municipality.

Expenses of witnesses in cases sent from unorganized districts, for trial in a county.

11. In respect of witnesses under sections 3 and 4 of this Act, in cases sent from the unorganized districts for trial in any county, the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R. S. O. 1877, c. 87, s. 11.

Witnesses in cases tried in unorganized districts.

12. The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending sittings of any of the Courts mentioned in section 1 of this Act, held within any of the said unorganized districts, upon the prosecution or trial of any treason, felony or other offence mentioned in sections 3 and 4 of this Act, and shall be so paid under such regulations as the Lieutenant-Governor in Council may adopt. R. S. O. 1877, c. 87, s. 12.

On recovery from prosecutor or defendant, the Municipality to be repaid.

13. In case witness fees paid under the provisions of this Act are, by virtue of the judgment of the Court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R. S. O. 1877, c. 87, s. 13.

Fee to Crown Attorney in respect of certificate.

14. To cover the costs, charges and expenses of, and incidental to, the certificate, or the inquiry whether a certificate should be granted, the County Crown Attorney shall be entitled to receive from the corporation of the county in which the Court is held the sum of \$1, in respect of every prosecution or trial on which a witness is examined, which sums shall be over and above his other costs and charges. R. S. O. 1877, c. 87, s. 14.

One-third of Crown Attorney's fee to be repaid to Municipality.

15. One-third of the fee of \$1, payable to the County Crown Attorney, as aforesaid, shall be repaid to the municipality out of the Consolidated Revenue Fund of the Province. R. S. O. 1877, c. 87, s. 15.

Witness fees payable on prosecution of claims, etc., by Her Majesty.

16. In case of any information, action, or other legal proceeding before any Court in Ontario, by or on behalf of the Crown, for the prosecution of rights, claims or demands of Her Majesty against any person or body corporate, for the use of the Province, or for the recovery of the possession of any lands, deeds or personal property whereto Her Majesty claims to be entitled, for the use of the Province, the witnesses shall be entitled to be paid the like witness fees as are payable in such Court in actions, between subject and subject. R. S. O. 1877, c. 87, s. 16.

Compensation not to be paid before determination of the case.

17. Nothing herein contained shall be construed to entitle a witness in any case to which this Act applies to require payment of any sum of money previous to the determination at such Court of the prosecution or trial at which he attends as a witness. R. S. O. 1877, c. 87, s. 17.

18. This Act shall not prejudice the rights which any county in which Indian Reservations are located may have as against the Dominion of Canada, under section 118 of *The Indian Act*, being chapter forty-three of the Revised Statutes of Canada. R. S. O. 1877, c. 87, s. 18.

Rights of Counties continued under R. S. C. c. 43, s. 118, as to costs on conviction, etc., of Indians.

CHAPTER 88.

An Act Respecting Estreats.

FINES AT ASSIZES :

Entry of fines on roll after Assizes, ss. 1, 2.

Writ to sheriff to levy, s. 3.

FINES AT SESSIONS :

Entry on roll, ss. 4, 5.

Writ to Sheriff to levy, s. 6.

ESTREAT OF RECOGNIZANCES TO PROSECUTE, ss. 7, 8.

FORBEARANCE OF ESTREAT, s. 9.

FORBEARANCE OF LEVY, s. 10.

SALE OF LAND FOR PAYMENT OF FINES, ss. 11, 12.

CONDITION OF RELEASE OF PARTY IN CUSTODY, s. 13.

DISCHARGE OF FORFEITED RECOGNIZANCES, s. 14.

RETURNS BY SHERIFF AND CLERK OF PEACE, ss. 15-17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Unless otherwise provided, all fines, issues, amerciaments and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the High Court or any Court of Oyer and Terminer, or General Gaol Delivery, or before any Court of Assize and Nisi Prius, shall, within twenty-one days from the adjournment of such Court, be fairly entered and extracted on a roll, by the Deputy Clerk of the Crown or Clerk of Assize, or in case of his death or absence, by any other person under the direction of the Judge who presided at the Court; which roll shall be made in duplicate, and be signed by the Clerk, or, in case of his death or absence, by the Judge. R. S. O. 1877, c. 88, s. 1.

All fines, etc., to be entered within 21 days from adjournment of Court be entered on a roll.

2. So soon as the said rolls are prepared one shall be transmitted by the Clerk, or, in the case of his death or absence by the Judge to the office of the Registrar of the Queen's Bench Division of the High Court, and the other with a writ of execu-

One copy of roll to be sent to Registrar of Q. B. D. and the other to the Sheriff of the County.

tion and *capias*, according to the form in the Schedule to this Act, to the Sheriff of the county in and for which such Court was holden, which writ, if unexecuted, shall remain in force for one year and no longer. R. S. O. 1877, c. 88, s. 2.

Mode of proceeding to levy fine, etc.

3. Such writ shall be authority to the Sheriff for proceeding to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made; and every person so taken shall be lodged in the Common Gaol of the county until satisfaction is made, or until the High Court upon cause shewn by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R. S. O. 1877, c. 88, s. 3.

Fines, etc., incurred at General Sessions to be entered and extracted on a roll in duplicate.

4. Unless otherwise provided, all fines, issues, amerciaments and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before any Court of General Sessions of the Peace, shall, within twenty-one days after the adjournment of the Court, be fairly entered and extracted on a roll by the Clerk of the Peace, which roll shall be made out in duplicate, and shall be signed by the Clerk of the Peace. R. S. O. 1877, c. 88, s. 4

How rolls disposed of and issued.

5. One of the rolls shall remain deposited in the office of the Clerk of the Peace, and the other shall, so soon as the same is prepared, be sent by the Clerk of the Peace, with a writ of execution and *capias*, according to the form in the Schedule to this Act, to the Sheriff of the county in which the Court of General Sessions was held. R. S. O. 1877, c. 88, s. 5.

Duty of Sheriff under the execution.

6. The writ shall be authority to the Sheriff for proceeding to the immediate levying and recovering of such fines, issues, amerciaments, and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made; and every person so taken shall be lodged in the Common Gaol of the county until satisfaction is made, or until the Court of General Sessions of the county, upon cause shewn by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R. S. O. 1877, c. 88, s. 6.

Estreat of recognizance, etc.

7. In case any person bound by recognizance for his appearance, (or for whose appearance any other person has become so bound) to prosecute or give evidence in any case of misdemeanour

for the commission of which a fine or penalty is imposed, which the Province is entitled to receive, makes default, the officer of the Court by whom the estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether by reason of his non-appearance the ends of justice have been defeated or delayed. R. S. O. 1877, c. 88, s. 7.

8. Every officer shall, before a recognizance is estreated lay the list, if at a sittings of the High Court or at a Court of Oyer and Terminer or Gaol Delivery or General Sessions of the Peace in any district or county, before the Judge or, one of the Judges who presided at the Court, who are respectively required to examine the list and to make such order touching the estreating or putting in process the recognizance as appears just; and no officer of the Court shall estreat or put in process a recognizance without the written order of the Judge, before whom the list has been laid. R. S. O. 1877, c. 88, s. 8.

Recognizances, etc., not to be estreated without Judge's order.

9. Except in the cases of persons bound by recognizance for their appearance (or for whose appearance any other person has become bound) to prosecute or give evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the Court in which the party was bound to appear, the Court, on consideration of the cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and with respect to all recognizances estreated and all fines imposed by any Court for the non-attendance of a juror or constable, or of a public officer bound to attend at the Court, if it appears to the satisfaction of the Judge who presided thereat, that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance, was owing to circumstances which rendered his absence justifiable, the Judge may make an order directing that the sum forfeited upon the estreated recognizance, or the fine imposed shall not be levied. R. S. O. 1877, c. 88, s. 9.

Court may forbear estreating recognizances under certain circumstances.

10. For this purpose, the clerk before sending to the sheriff the roll, with a writ of execution and *capias*, as directed by this Act, shall submit the same to the Judge who presided at the Court for his revision; and the Judge, may make a minute on the roll and writ of any forfeited recognizances and fines which he thinks fit to direct not to be levied; and

Presiding Judge may direct Sheriff to forbear levying fines, etc., under certain circumstances.

the sheriff shall observe the direction in the minute, and shall forbear accordingly to levy the forfeited recognizance or fine. R. S. O. 1877, c. 88, s. 10.

Mode of proceeding where lands are seized for payment of fines, etc.

11. If upon a writ issued under this Act, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve months from the time the writ comes to the hands of the sheriff. R. S. O. 1877, c. 88, s. 11.

Deputy Clerk of Crown, etc., to make affidavit.

12. The Clerk shall, at the foot of every roll made out as herein directed, make affidavit in the following form, that is to say :

Form.

"*I. A. B., (describing his office), make oath that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, recognizances and forfeitures which were set, lost, imposed or forfeited, at or by the Court therein mentioned, and which in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in Court or otherwise, without any wilful discharge, omission, misnomer, or defect whatever: So help me God.*"

which affidavit any Justice of the Peace for the county is hereby authorized to administer. R. S. O. 1877, c. 88, s. 12.

Conditions upon which a party in custody of the Sheriff may be released.

13. If a person on whose goods and chattels a sheriff bailiff or other officer is authorized to levy a forfeited recognizance, gives security to the sheriff or other officer for his appearance in the Court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, then and there to abide the decision of the Court, and also to pay the forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as may be adjudged and ordered by the Court, the sheriff or officer shall discharge such person out of custody; and in case the person does not appear in pursuance of his undertaking, the Court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound as aforesaid. R. S. O. 1877, c. 88, s. 13.

Court under certain circumstances may discharge forfeited recognizances, etc.

14. The High Court or Court of General Sessions, into which any writ of execution and *capias* issued under this Act, is returnable, may inquire into the circumstances of the case, and may, in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to the Court appears just; and the order shall accordingly be a discharge to the sheriff or to the party, according to the circumstances of the case. R. S. O. 1877, c. 88, s. 14.

15. The sheriff to whom a writ is directed under this Act, shall with his return state on the back of the roll attached to the writ, what has been done in the execution thereof; and the return shall be filed in the Court into which it is made. R. S. O. 1877, c. 88, s. 15.

Manner of
return by
Sheriff, etc.

16. A copy of the roll and return, certified by the clerk of the peace, or by the registrar of one of the Divisions of the High Court (as the case may be), shall be forthwith transmitted to the Treasurer of the Province, and the inspector of legal offices, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the Court, in the whole or in part, or directed to be forborne, under the authority of this Act. R. S. O. 1877, c. 88, s. 16; 47 V. c. 10, s. 16.

Copy of roll
and return to
be sent to Pro-
vincial Treas-
urer.

17. The sheriff shall, without delay, pay over all moneys by him collected to the Provincial Treasurer or other officer or person entitled to receive the same. R. S. O. 1877, c. 88, s. 17.

Sheriff to pay
to Provincial
Treasurer or
person en-
titled.

SCHEDULE.

(Sections 2 and 5.)

WRIT OF EXECUTION AND CAPIAS.

VICTORIA, by the Grace of God, etc.

To the Sheriff of _____, Greeting :

You are hereby commanded to levy of the goods and chattels, lands and tenements of all and singular the persons mentioned in the roll or extract to this Writ annexed, all and singular the debts and sums of money upon them severally imposed and charged as therein is specified; and if any of the said several debts cannot be levied, by reason of no goods or chattels, lands or tenements being to be found belonging to the said parties respectively, then, and in all such cases, that you take the bodies of such parties and keep them safely in the Gaol of your County, there to abide the judgment of Our High Court, (or Court of General Sessions, *as the case may be*) upon any matter to be shewn by them respectively, or otherwise to remain in your custody as aforesaid until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said Court, or within thirty days after the giving of the security, or so soon after as the Court shall sit, for which you will be held answerable; and what you do in the premises make appear before Us in Our High Court of Justice at Toronto, (or at the next Court of General Sessions of the Peace, *as the case may be*) immediately after the execution hereof and have then and there this Writ.

Witness, etc., A. B., Deputy Clerk of the Crown (or C. D., Clerk of the Peace or *as the case may be*) for the County of _____, this day of _____, 18 ____.

R. S. O. 1877, c. 88, Sched.

CHAPTER 89.

An Act respecting the Appropriation of certain Fines and Forfeitures.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The portion of all fines distributed by the law of England to the poor shall be paid to the Treasurer of the county or city in which conviction took place.

1. In all cases not otherwise provided for, in which, by any Imperial Statute in force in Ontario, a fine or penalty is imposed, in respect to matters within the legislative authority of the Legislature of Ontario, and the whole or part of the fine or penalty is in any manner appropriated for the support of the poor, or to any parochial or other purpose, inapplicable to the existing state of Ontario, the fine or penalty, or the part thereof so appropriated, shall when received be paid to the Treasurer of the county or city in which the conviction has taken place, to be appropriated to the purposes thereof, and accounted for in the same manner as the general rates and assessments levied therein are applicable and accountable by law. R. S. O. 1877, c. 89, s. 1.

Where no appropriation specified, fines etc., shall be paid to the Provincial Treasurer.

2. Every fine and penalty imposed for the punishment of any offence prohibited by any statute now or hereafter in force in this Province, and the proceeds of every forfeiture imposed and given to the Crown by any statute now or hereafter in force in this Province, shall, where the disposal of the same is within the power of the Province and no other provision is made in respect thereto, be paid to the treasurer of the Province, and shall form part of the consolidated revenue fund. R. S. O. 1877, c. 89, s. 2. See C. S. U. C. c. 118, s. 2; see also *Rev. Stat.* Cap. 1, s. 8 (30).

[By R. S. C. c. 180, s. 1, provision is made for the appropriation of fines, etc., the disposal of which is not within the authority of the Province.]

CHAPTER 90.

An Act respecting the Remission of certain Penalties.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where a pecuniary penalty or forfeiture is imposed by any Act of this Province or by any other Act now in force in this Province, within the legislative authority of this Province, the Court or Judge having cognizance of the proceedings may, at any time after the commencement thereof, remit in whole or in part any sum of money by such Act imposed as a penalty or forfeiture on a convicted offender, and may do so whether the money is in whole or in part payable to the Crown or to some person other than the Crown, and whether the same is recoverable by indictment, information, summary process, action, or any other process. 48 V. c. 13, s. 16 (1, 2). Remission of penalties by Court.

2. This Act shall not be held to give to a Police Magistrate or Justice of Peace the authority herein mentioned. 48 V. c. 13, s. 16 (2). Act not to apply to Magistrates.

3. The Lieutenant-Governor in Council shall also have power at any time to remit any such penalty or forfeiture, in whole or in part, unless the same is imposed by *The Act respecting the Legislative Assembly*, or by some Act respecting elections of members of the Legislative Assembly, or is recoverable in respect of an offence committed in connection with an election of a member of the said Assembly. 48 V. c. 13, s. 16 (3). Lieutenant-Governor. Rev. Stat. c. 11.

4. This Act shall not be construed to include the power of remitting any costs incurred up to the time of remitting the penalty or forfeiture. 48 V. c. 13, s. 16 (4). Not to apply to costs.

8. IN UNORGANIZED DISTRICTS.

CHAPTER 91.

An Act respecting the Administration of Justice in the Districts of Thunder Bay, Rainy River, Muskoka, Parry Sound, and Nipissing.

SHORT TITLE, s. 1.

TEMPORARY JUDICIAL DISTRICTS :

Organization, s. 2.

Stipendiary Magistrates, ss. 3-7.

Justices of the Peace, ss. 8, 9.

Returns of Convictions, s. 10.

Appeals from Magistrates, s. 11.

Appointment of Gaol Keepers, s. 12.

Application of Fines, s. 13.

Accounts, Returns, etc., by Stipendiary Magistrate, s. 14.

Gaols and Lock-ups, ss. 15-17, 81.

Division Courts, ss. 18-34.

Registration of Deeds, ss. 35-38.

Districts united to Simcoe and Thunder Bay for certain Judicial purposes, s. 39.

Execution of Writs, s. 40.

Special provisions as to Nipissing, ss. 41, 42.

Special provisions as to Rainy River, s. 43.

PROVISIONAL JUDICIAL DISTRICTS :

Organization, ss. 44, 45.

Administration of Justice, ss. 46-55.

Jurisdiction of District Courts, ss. 56-58.

Sittings, ss. 59, 72.

Time for Appearance, s. 60.

Costs, s. 61.

Sheriff of Thunder Bay, s. 62.

Service of Papers by Sheriffs, s. 63.

Time for sale of lands under execution, s. 63 (3).

Jurors and Jury Panels, ss. 64-66.

Sittings of High Court, s. 66.

Deputy Clerk, ss. 67-69.

Venue in actions arising in Rainy River, s. 68.

Surrogate Court, s. 69, 70.

Appointment of Sheriff of Rainy River, s. 71.

COURTS IN DISTRICTS AND PROVISIONAL COUNTIES, ss. 73-77.

CONSTABLES IN DISTRICTS AND PROVISIONAL COUNTIES, ss. 78, 79.

ALTERATION OF LIMITS, s. 80.

GAOLS TO BE PROVIDED, s. 81.

TRESPASSES BY ANIMALS, s. 82.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as "*The Unorganized Territory Act.*"

Lieutenant-Governor may erect certain unorganized tracts into Temporary Judicial Districts.

2.—(1) The Lieutenant-Governor may from time to time, by proclamation, declare that, from and after a day to be named therein, certain parts of the unorganized tracts of country bordering on and adjacent to Lakes Superior and Huron, including the islands in those lakes which belong to this Province, and also all other parts of Ontario, not included within the settled limits of any county shall form a Temporary Judicial District or Temporary Judicial Districts, and in such proclamation may define the limits of such District or Districts, and name the same respectively : and the Lieutenant-Governor may from time to time alter the limits and extent of such District or Districts.

(2) Any portion or portions of a county not included in any township may, for all purposes connected with the administration of justice under this Act, be included within the limits of any Temporary Judicial District as aforesaid, and may again be separated therefrom by the Lieutenant-Governor. Tracts not included in Townships may be annexed to such Districts. R. S. O. 1877, c. 90, s. 1.

3.—(1) The Lieutenant-Governor may from time to time appoint in and for each of the said Districts and for the Districts of Muskoka, Parry Sound and Rainy River a fit and proper person to be Stipendiary Magistrate thereof, who shall exercise within the District the magisterial, judicial and other functions herein expressed or provided, and who shall reside in such place within the District as the Lieutenant-Governor directs. Stipendiary magistrate may be appointed. R. S. O. 1877, c. 7, s. 4; c. 90, s. 2.

(2) Two Stipendiary Magistrates may be appointed for the Temporary Judicial District of Nipissing, and the expression "Stipendiary Magistrate" shall, when used with reference to that District, be taken to apply to either of the Stipendiary Magistrates so appointed. 43 V. c. 12, ss. 3-4; 47 V. c. 14 s. 1.

4. Every Stipendiary Magistrate may, besides the salary voted to him by the Legislature, have and take, to his own use, the fees authorized to be taken by Justices of the Peace or by their clerks, in cases of summary proceedings or convictions. Salary and fees. R. S. O. 1877, c. 7, s. 5; c. 90, s. 3.

5. Every Stipendiary Magistrate shall be *ex officio* a Justice of the Peace for the District for which he is appointed, and shall have all the powers, jurisdiction and authority, and shall perform all the duties which a Justice of the Peace in any county now has, and is required to perform within any such county; and all the protections and provisions of law applicable to such Justices of the Peace shall extend and apply to such Stipendiary Magistrate acting within the limits of his District; and such Stipendiary Magistrate may and shall act in the execution of the office of Justice of the Peace for the District, although he has not the property qualification required by *The Act respecting the Qualification and Appointment of Justices of the Peace*. Such Magistrate to be a Justice of the Peace; powers as such, etc. R. S. O. 1877, c. 90, s. 4. Rev. Stat. c. 71.

6. The oath to be taken by every Stipendiary Magistrate, in addition to his oath of office as a Justice of the Peace, shall be as follows: Form of oath.

"I, A. B., do swear, that I will truly and faithfully execute the several powers, duties and trusts committed to, or required of me, as Stipendiary Magistrate for the District of (*naming it*) without fear, without favour, and without malice: So help me God."

R. S. O. 1877, c. 7, s. 6; c. 90, s. 11.

Stipendiary
Magistrate
may sit alone
with powers of
two Justices.

7. Every Stipendiary Magistrate shall have full power, to do, alone, whatever is authorized by any Statute in force in this Province relating to matters within the legislative authority of the Legislature of the Province to be done by two or more Justices of the Peace. R. S. O. 1877, c. 90, s. 44.

Justice of the
Peace. Prop-
erty qualifi-
cation, etc.
not necessary.

8. The Lieutenant-Governor in Council may, from time to time, appoint fit and proper persons to be Justices of the Peace in and for each of the said Districts, and it shall not be necessary for such Justice of the Peace to possess any property qualification whatever, or to be resident within the District for which he is appointed. R. S. O. 1877, c. 7, s. 7; c. 90, s. 46; 44 V. c. 5, s. 88.

Authority of
such Justices.

9. The Justices of the Peace appointed under this Act shall have, hold and exercise all the powers and authority, and be subject in all respects (except as to any matters incident to the residence or property qualification, required in cases not within the meaning of this Act) to the requirements of the laws in force in this Province, respecting the office of Justice of the Peace, in so far as the same may be applicable to the persons appointed under this Act, and not inconsistent with the removal of the restrictions hereby intended to be imposed. R. S. O. 1877, c. 7, s. 8.

Returns of
convictions.

10. All returns of convictions required by law to be made by any Justice or Justices of the Peace shall be made,

- (a) For the Districts of Muskoka and Parry Sound to the clerk of the peace for the County of Simcoe;
- (b) For the District of Rainy River to the clerk of the peace for the District of Thunder Bay;
- (c) For the District of Nipissing to the clerk of the peace of the County of Renfrew. R. S. O. 1877, c. 7, s. 9; 47 V. c. 15, s. 1, (1); 48 V. c. 20, s. 8.

Appeal from
decisions of
Magistrates.

11.—(1) In all cases arising in the said Districts in which, according to the general laws of this Province, an appeal lies from the decision of the Stipendiary Magistrate or of any one or more Justices of the Peace to the General Sessions of the Peace, the appeal shall lie to, and may be brought before, and heard and determined,

- (a) In cases arising in the Districts of Muskoka and Parry Sound, by the Court of General Sessions of the Peace for the County of Simcoe;
- (b) In cases arising in the District of Rainy River, by the Court of General Sessions of the Peace for the District of Thunder Bay;
- (c) In cases arising in the District of Nipissing by the Court of General Sessions of the Peace for the County of Renfrew.

(2) Such appeal shall be claimed and allowed and prosecuted in the same manner, and within the same period, as

if the same had arisen within the limits of the County of Simcoe, the District of Thunder Bay or the County of Renfrew respectively. R. S. O. 1877, c. 7, s. 10; 47 V. c. 15, s. 1.

12. The Stipendiary Magistrate shall from time to time appoint a keeper to every common gaol in his District, and the gaol keeper shall perform all the duties, and be under and subject to all the liabilities that the gaolers of the common gaols in the several counties in Ontario now perform and are subject to, and shall give such security for the due performance of the duties of his office as the Lieutenant-Governor from time to time prescribes, and every such gaol-keeper shall be paid out of the consolidated revenue fund, such sums of money Appoint-ment of gaoler. annually as the Lieutenant-Governor may think reasonable for his remunera-tion. the services performed. R. S. O. 1877, c. 7, s. 22; c. 90, s. 6.

13. All moneys arising from penalties, forfeitures and fines imposed by a Stipendiary Magistrate, or by a Justice of the Peace acting within his District when paid and levied, shall (if not directed by law to be otherwise appropriated) be from time to time paid to such Stipendiary Magistrate who shall account for the same, and pay over or disburse the moneys arising therefrom, at such times, in such manner, and to such person as the Lieutenant-Governor may from time to time direct. Application of fines and for-feitures. R. S. O. 1877, c. 7, s. 22; c. 90, s. 7.

14. Every Stipendiary Magistrate shall keep minutes of every proceeding had by and before him, and shall keep such accounts, make such returns, and collect such information, Stipendiary Magistrate to keep minutes, accounts, etc. with respect to the District for which he is appointed and the state and condition thereof, as the Lieutenant-Governor may from time to time prescribe and require. R. S. O. 1877, c. 7, s. 22; c. 90, s. 8.

15.—(1) Any gaol or lock-up erected in either of the Districts of Muskoka or Parry Sound, under the authority of the Lieutenant-Governor, or any building so declared by Order in Council, shall be a common gaol of such District, and of the County of Simcoe, for the safe custody of persons charged with the commission, within such District, of crimes, or with the commission therein of offences against any of the statutes of this Province, or against any municipal by-law, who may not have been finally committed for trial; or for the safe custody of persons finally committed for trial, charged as aforesaid, who are to be tried within the District; or for the confinement of persons sentenced within the District for crimes or offences aforesaid, for periods not exceeding one month; or for the confinement of persons sentenced as aforesaid, for periods exceeding one month, until such persons can be conveniently removed to the gaol at Barrie, or other lawful prison to which they are sentenced. Gaols of Mus-koka and Parry Sound to be also common gaols of Simcoe. R. S. O. 1877, c. 7, s. 15.

(2) Nothing contained in the preceding sub-section shall be construed to prevent any Court or Magistrate from direct-Preceding sub-section not to prevent committal to gaol at Barrie. ing the committal, either for safe custody or for punishment,

of any person whom it may be considered expedient to commit to the common gaol at Barrie. R. S. O. 1877, c. 7, s. 17.

Lock-ups in
Thunder Bay
to be common
gaols.

16.—(1) Any gaol or lock-up erected in the District of Thunder Bay, under the authority of the Lieutenant-Governor or any building so declared by order in Council, shall be a common gaol of the District, for the safe custody of persons charged with the commission within the District of Thunder Bay, of crimes, or with the commission therein of offences against any Statutes of this Province, or against any municipal by-law, who may not have been finally committed for trial; or for the safe custody of persons finally committed for trial, charged as aforesaid, who are to be tried within the District; or for the confinement of persons sentenced within the District for crimes or for offences as aforesaid for periods not exceeding six months; or for the confinement of persons sentenced as aforesaid for periods exceeding six months, until such persons can be conveniently removed to the gaol at Port Arthur, or other lawful prison to which they are sentenced. 43 V. c. 12, s. 13; 47 V. c. 14, s. 1.

Gaols and
Lock ups in
Rainy River.

(2) Any gaol or lock-up erected in the District of Rainy River under the authority of the Lieutenant-Governor, or any building so declared by Order in Council, shall be a common gaol of the district, for the safe custody of persons charged with the commission, within the District, of crimes, or with the commission therein of offences against any statute of this Province, or against any municipal by-law, who may not have been finally committed for trial, or for the safe custody of persons finally committed for trial, charged as aforesaid who are to be tried within the District of Rainy River; or for the confinement of persons sentenced within the said District for crimes or for offences as aforesaid, for periods not exceeding six months; or for the confinement of persons sentenced as aforesaid for periods exceeding six months until such persons can be conveniently removed to the gaol at Rat Portage, or other lawful prison to which they are sentenced.

Gaol at Rat
Portage.

(3) The gaol at Rat Portage shall be the chief common gaol of the District of Rainy River, and, besides being for the detention of persons held for safe custody as mentioned in this section, shall also be for the confinement of persons sentenced within the said District for crimes or offences as aforesaid for periods less than two years. 48 V. c. 20, s. 10.

17. Any gaol or lock-up erected in the District of Nipissing under the authority of the Lieutenant-Governor, or any building so declared by Order in Council, shall be a common gaol of the District for the safe custody of persons charged with the commission, within the District, of crimes, or with the commission therein of offences against any statute of this Province, or against any municipal by-law, who may not have been finally committed for trial or for the safe custody of persons finally committed for trial, charged as aforesaid, who are

to be tried within the said District; or for the confinement of persons sentenced, within the District, for crimes or offences as aforesaid for periods not exceeding six months; or for the confinement of persons sentenced, as aforesaid, for periods exceeding six months, until such persons can be conveniently removed to any other lawful prison to which they are sentenced. 48 V. c. 13, s. 29.

Division Courts.

18. The Lieutenant-Governor in Council may divide each of the said Districts into two or more divisions, and appoint, and from time to time alter the number, limits and extent of every such division, and may number the same consecutively, commencing at number one. R. S. O. 1877, c. 7, s. 18; c. 90, s. 9.

District may be divided into divisions.

19.—(1) A Court shall be held in every such division in a Territorial District once in every three months, or oftener at the discretion of the Stipendiary Magistrate, who may appoint, and from time to time alter the times and places within such divisions when and at which such Courts shall be held, subject to the approval of the Lieutenant-Governor in Council.

Court to be held in each division.

(2) The Lieutenant-Governor in Council may from time to time make such regulations as he considers expedient in order to secure the due and convenient holding of Courts in the said Districts, and within all other Districts now or hereafter to be formed in any part of the unorganized territory in Ontario. R. S. O. 1877, c. 7, s. 19; c. 90, s. 10; 43 V. c. 12, s. 4, last part; 50 V. c. 8, Sched.

20.—(1) The Stipendiary Magistrate shall act as Division Court Judge of the District for which he is appointed and, besides any additional jurisdiction given to him by this Act, shall have the like jurisdiction and powers as are possessed by the County Court Judges in Division Courts in counties, and shall perform the like duties.

Stipendiary Magistrate to be Judge of Division Court.

(2) The Stipendiary Magistrate shall be the sole Judge in all actions brought in the said Division Courts, and shall determine all questions as well of fact as of law in relation thereto in the summary manner authorized by this Act; but if he thinks fit to have any fact or facts controverted in a cause, tried by a jury, a jury of five persons present shall be returned instantly by the Clerk of the Court to try such fact or facts, and the Stipendiary Magistrate may give judgment on the verdict of the jury. R. S. O. 1877, c. 7, s. 20; c. 90, ss. 11, 12.

Stipendiary Magistrate to be sole Judge.

Jury trial.

21.—(1) The provisions of law from time to time in force relating to Division Courts in counties, and the officers thereof, including the rules or forms made or to be made by the Board of County Judges, and the fees payable to the clerks and bailiffs, shall apply to the Division Courts of the said Districts, except where inconsistent with this Act. R. S. O. 1877, c. 7, s. 20; c. 90, s. 13; 45 V. c. 7, s. 2.

Procedure.

(2) Sections 150, 154, 158 and 170 of *The Division Courts*

Act shall not apply to the Division Courts of the said Districts. 45 V. c. 7, s. 1 (1).

Holding of
Division
Courts in
Simcoe, Mus-
koka and
Parry Sound.

22.—(1) The Judge or Junior Judge of the County Court of the County of Simcoe, may, if he thinks fit, at the request of the Stipendiary Magistrate of the District, hold any Division Court in the District of Muskoka, or in the District of Parry Sound; and the Stipendiary Magistrate of either of such Districts, may if he thinks fit, at the request of the Judge or Junior Judge of the said County of Simcoe, hold any Division Court in such county.

(2) Every Judge or Stipendiary Magistrate while holding any such Court shall have all the rights, powers and privileges of the officer at whose request he is holding Court. R. S. O. 1877, c. 7, s. 21.

Certain causes
of action not
recognizable.

23. The Division Courts of the said Districts shall not have cognizance of any action for any gambling debt, or for any spirituous, malt, or other like liquors nor of any action whether brought by the payee or any other person on a note of hand, the consideration or any part of the consideration of which was for a gambling debt or for such liquors, nor of any action for the recovery of land, or any action in which the title to any corporeal or incorporeal hereditaments, or to any toll, custom or franchise is in question, or in which the validity of any devise, bequest or limitation under any will or settlement is disputed, nor of any action for malicious prosecution, or for libel or slander, or for criminal conversation or seduction, or breach of promise of marriage. R. S. O. 1877, c. 90, s. 14.

Jurisdiction of
the Court.

Rev. Stat.
s. 51.

Mode of pro-
ceeding.

24. The said Division Courts, in addition to the jurisdiction given to Division Courts under *The Division Courts Act*, shall have jurisdiction in all personal actions where the amount claimed does not exceed \$100, and the Stipendiary Magistrate shall hear and determine such actions and matters in relation thereto in a summary way, and make such orders and judgments as appear to him just and agreeable to equity and good conscience. R. S. O. 1877, c. 7, s. 22; c. 90, s. 16.

Executor, etc.,
may sue and
be sued.

And minors
may sue for
wages, etc.

25. Any executor or administrator may sue and be sued in any such Division Court, in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like cases would be given or issued in the High Court; and any one under the age of twenty-one years may prosecute an action, in any such Court for any sum of money not exceeding \$100, due to him for wages or piece work, or for work as a servant, in the same manner as if he were of full age. R. S. O. 1877, c. 7, s. 22; c. 90, s. 18.

26. With the consent of both parties to the action, the Stipendiary Magistrate may try any action within his jurisdiction against a Division Court Clerk of his District in any Division Court within the District. R. S. O. 1877, c. 7, s. 22; c. 90, s. 19.

27. An action by or against a Stipendiary Magistrate, if the same is within the jurisdiction of any Division Court of his District, may be brought in any Division Court of any adjoining County or District. R. S. O. 1877, c. 90, s. 45.

28.—(1) The Stipendiary Magistrate holding any Division Court as aforesaid, may, in any case, with the consent in writing of both parties to the action, order the same, with or without other matters in dispute between the parties and within the jurisdiction of the Court as to subject matter but irrespective of amount if not exceeding \$800, to be referred to arbitration to such persons, and in such manner and on such terms as he may think reasonable and just; and such reference shall not be revocable by either party, except by consent of the Stipendiary Magistrate; and the award of the arbitrator or arbitrators or umpire, shall be entered in the cause as a judgment of the Court, and shall be binding and effectual, to all intents and purposes. R. S. O. 1877, c. 7, s. 22; c. 90, s. 20.

(2) Where a reference has been made by such order, either of the parties to the action may obtain from the clerk of any Division Court, and cause to be duly served a summons or subpoena requiring the attendance before the said arbitrators, of any witness resident within the District, in like manner as before the Stipendiary Magistrate at the sittings of the said Division Court. R. S. O. 1877, c. 7, s. 22; c. 90, s. 21, *part*.

29. The Stipendiary Magistrate may, on application to him within fourteen days after the entry of the award, set the same aside, or may, with the consent in writing of both parties revoke the said reference and order another reference to be made in the manner aforesaid. R. S. O. 1877, c. 7, s. 22; c. 90, s. 21, *part*.

30.—(1) If the parties between whom differences have arisen agree by a writing signed by them to refer their causes of action, claims and demands to the Stipendiary Magistrate and agree that the Stipendiary Magistrate may try and determine the same, the said Stipendiary Magistrate shall have power and jurisdiction so to do, provided the subject matter of difference is upon a cause or causes of action not exceeding \$800 in amount, and not within the subjects excepted from the jurisdiction of the said Division Courts.

(2) Every such agreement shall be executed in duplicate, one of which duplicates shall be filed with the said Stipendiary Magistrate and the other with the clerk of the Division Court and the Court shall thereupon have jurisdiction in respect of the matter so referred.

May be filed and proceedings thereon had to judgment in one of the Division Courts.

(3) Upon such agreement being filed the plaintiff may enter his claim for suit in such Division Court, and sue out a summons thereupon as in ordinary cases, and the proceedings in the said action may be conducted to judgment and execution (irrespective of the amount recovered, provided it does not exceed \$800) in the same manner as in other actions in the said Court, and the judgment in such action shall have the same effect as any other judgment of the Court. R. S. O. 1877, c. 90, ss. 22, 23 and 24.

Appeals from Stipendiary Magistrate.

31. From the judgment of a Stipendiary Magistrate pronounced in a case tried under the preceding two sections an appeal shall lie to the Court of Appeal subject to such rules as to security, stay of proceedings, and otherwise, as the said Court may make in respect thereto, and subject until such rules are made, to the like rules, and statutory restrictions as are applicable to appeals from the decision of a Judge of a County Court; but the entry of judgment shall not prevent the appeal being had or proceeded with. R. S. O. 1877, c. 90, s. 25.

Service on application for new trial.

32. Upon an application for a new trial in a cause wherein either party may appeal, personal service may be effected, or all papers requiring service may be delivered to the clerk of the Division Court where the action was tried, or left at his office for the person entitled thereto. The clerk shall forthwith mail by registered letter all such papers to the person entitled to the same, or his authorized agent. 45 V. c. 7, s. 1 (4).

Stay of proceedings.

33. On the application of the party proposing to appeal his counsel, solicitor or agent, the Stipendiary Magistrate shall stay the proceedings in the cause for a time not exceeding twenty days, from the day of giving judgment on the application for a new trial, in order to afford time to give the security required for appeal. 43 V. c. 8, s. 18; 45 V. c. 7, s. 1 (3).

Parties may agree not to appeal from Stipendiary Magistrates.

34. No appeal shall lie to the Court of Appeal if, before the Court opens, or if (without the intervention of the Stipendiary Magistrate), before the commencement of the trial, there shall be filed with the clerk an agreement in writing not to appeal, signed by both parties, or by their solicitors or agents. The Stipendiary Magistrate shall note in his minutes whether such agreement was filed or not, and the minutes shall be evidence upon that point. 49 V. c. 16, s. 22.

REGISTRATION OF DEEDS, ETC.

Registrar of Deeds may be appointed.

35.—(1) The Lieutenant-Governor in Council may appoint a registrar of deeds in and for each of the Districts of Algoma, Thunder Bay exclusive of Rainy River, Muskoka, Parry Sound, Rainy River and Nipissing, who shall hold office

during pleasure, and shall register all deeds, and other conveyances and instruments relating to lands laid out and surveyed by the Crown in any part of his District. R. S. O. 1877, c. 7, s. 23 ; c. 90, ss. 58, 59 ; 48 V. c. 20, s. 1.

(2) The said registrar shall keep his office in a place to be named for that purpose in his commission, or at such other place as may be appointed from time to time by the Lieutenant-Governor in Council, and his duties shall be the same as the duties of other registrars under the registry laws of this Province; and his fees shall be the same as those appointed and established by such registry laws. R. S. O. 1877, c. 7, s. 24 ; c. 90, ss. 59-60.

Office, duties,
and fees of
Registrar.

(3) The Lieutenant-Governor in Council may order an annual salary, not exceeding \$800, to be paid to the registrar of a Temporary Judicial District out of the consolidated revenue fund of this Province, in lieu of such fees; which fees shall in such case be paid into the consolidated revenue fund. R. S. O. 1877, c. 90, s. 61.

Salary may be
allowed.

36. The provisions of law relating to securities to be given by registrars of deeds in other parts of Ontario shall also apply to the registrars of the said Districts, except that the covenant to be given by such officers shall be for such an amount as the Lieutenant-Governor in Council may determine. R. S. O. 1877, c. 7, s. 25 ; c. 90, s. 62 ; 47 V. c. 14, s. 9 ; 48 V. c. 20, s. 7.

Securities by
Registrars.

37. The registrars of any of the said Districts when thereunto required by the Lieutenant-Governor, shall transfer and deliver to the registrars of any other of the said Districts all books, deeds, papers, plans and documents in their possession respectively as such registrars referring or relating exclusively to any lands within such other District or Districts; and all the provisions of the Registry Laws of this Province relating to the transfer of books, deeds, memorials, plans and other documents or instruments from one registry office to another registry office when a part of a county has been detached therefrom and set apart for registration purposes, shall apply to the registrars and registry offices in the said Districts. R. S. O. 1877, c. 7, s. 26 ; c. 111, s. 28.

Transfer of
books, deeds,
etc.

38. The Lieutenant-Governor in Council may, from time to time, by proclamation, limit the territory which, for registry purposes, shall be included within the districts of Algoma, Thunder Bay and Nipissing respectively. 43 V. c. 12, s. 2.

Alteration of
limits of terri-
tory for regis-
try purposes.

GENERAL PROVISIONS.

39. For all judicial purposes not provided for by this Act, the townships and territory composing the Districts of Muskoka and Parry Sound shall continue to form part of the County of Simcoe or Thunder Bay.

For certain
judicial pur-
poses, Districts
to form part of
Simcoe or
Thunder Bay.

of Simcoe, and the townships and territory composing the District of Rainy River shall continue to form part of the District of Thunder Bay. R. S. O. 1877, c. 7, s. 27; 47 V. c. 14, s. 16 (2).

Execution
of writs.

40.—(1) The Queen's writs shall run and may be executed in any parts of the said Districts, and shall have the same force and effect upon persons and property as similar writs have in the organized parts of Ontario. R. S. O. 1877, c. 7, s. 12 (1); c. 90, s. 26.

Writs to whom
to be directed.

(2) Such writs, in the Districts of Muskoka and Parry Sound, shall be directed to the sheriff of the County of Simcoe; and all writs and other process requiring to be directed to a sheriff and intended to be executed within the District of Rainy River shall be directed to the sheriff of Rainy River, and in a Temporary Judicial District shall, unless otherwise specially provided by law, be directed to the sheriff of any county next adjacent thereto. R. S. O. 1877, c. 7, s. 12 (2); c. 90, s. 26; 48 V. c. 20, s. 6 (2).

District of Nipissing.

Execution
against goods
in Nipissing
to bind from
seizure.

41. No writ of execution issued against goods and chattels in the District of Nipissing shall have any force or effect to bind such goods and chattels before actual seizure thereof under such writ, unless such writ is directed and delivered to the sheriff of the County of Renfrew to be executed; and all writs of execution against lands, or for recovering possession of any lands or tenements, in the said District, shall be directed to the sheriff of the said County of Renfrew; and every writ of execution against lands or goods directed to the said sheriff of the County of Renfrew shall bind the goods and lands of the debtor within the said District from the time they are delivered to the said sheriff to be executed; and for the purposes in this section mentioned, the said District shall be part of the bailiwick of the said sheriff of the County of Renfrew. R. S. O. 1877, c. 90, s. 28.

Actions for
causes arising
in Nipissing,
and not within
the jurisdic-
tion of the
Division
Court.

42. When a cause of action wherein the venue is local and which is not within the jurisdiction of the Division Courts of the District, arises in the Temporary Judicial District of Nipissing, the action may be brought and the trial had in any county or union of counties, adjoining any part of the said District, with the same effect as if the said District of Nipissing was a part of such county or union of counties; but the Court or a Judge on the application of either party may order that the trial shall take place in any other county. R. S. O. 1877, c. 90, s. 27.

District of Rainy River.

Jurisdiction
of Stipendiary
Magistrate in
actions.

43.—(1) In respect of actions commenced or to be commenced by the issue of process out of the office of the deputy clerk for the District of Rainy River, the Stipendiary Magistrate for the

District of Rainy River may, subject to an appeal to the Judge of the District Court of the Provisional Judicial District of Thunder Bay, do all such things and transact all such business and exercise all such authority and jurisdiction as, by virtue of any statute or custom, or by the rules and practice in force in the said District Court, may be done, transacted or exercised by the said Judge in Chambers, except (unless by consent of the parties) in respect of the following proceedings and matters, that is to say:—

- (a) The referring of causes under any Act in force respecting references;
- (b) Reviewing taxation of costs; and
- (c) Staying proceedings between verdict and judgment.

(2) In such excepted matters, the Stipendiary Magistrate may issue a summons returnable before the said Judge, with or without a stay of proceedings, as he may think proper.

(3) In case any matter shall appear to the Stipendiary Magistrate to be proper for the decision of the Judge, the Stipendiary Magistrate may refer the same to the Judge, and the Judge may either dispose of the matter, or refer the same back to the Stipendiary Magistrate with such directions as he may think fit.

(4) Appeals from the Stipendiary Magistrate's order or decision may be made by summons, such summons to be taken out within ten days after the decision complained of, or within such further time as may be allowed by the Judge, or by the Stipendiary Magistrate.

Appeals from
orders of
Stipendiary
Magistrate.

(5) An appeal shall be no stay unless so ordered by the Judge or Stipendiary Magistrate.

(6) The costs of an appeal shall be in the discretion of the Judge.

(7) The fees and the scale of allowance thereof; for all matters done by and before the Stipendiary Magistrate, shall be the same as are authorized for business done by and before the Judge.

(8) The Stipendiary Magistrate in granting a summons or order may impose upon the party obtaining the same such terms or conditions as he deems expedient. 49 V. c. 19, s. 7.

PROVISIONAL JUDICIAL DISTRICTS.

44. The Lieutenant-Governor may from time to time, by proclamation under the Great Seal, declare that, from and after a day to be therein named, either of the Districts of Muskoka or Parry Sound with or without any other territory and any other part or parts of the unorganized tracts of country in this Province bordering upon and adjacent to Lakes Superior and Huron, including the islands in those lakes within this

Lieut.-Governor may
form Provisional Judicial
Districts out
of unorganized
tracts.

Province, and also any other part of Ontario not included within the limits of any county or township, shall form a Provisional Judicial District or Districts, and define the limits of such District or Districts; and such Provisional Judicial District or Districts shall thereupon be formed accordingly. R. S. O. 1877, c. 7, s. 28; c. 90, s. 29.

Any territory not included in any Township may be included in a Provisional Judicial District.

45. The Lieutenant-Governor may, by proclamation as aforesaid, include within the limits of any such Provisional Judicial District, any portion of any county in Ontario not included in any township; and thereupon such portion shall for all purposes connected with the administration of justice cease to belong to such county; but whenever such portion, or any part thereof, is formed or erected into a township, the same shall thereupon cease to belong to or form part of the Provisional Judicial District, and shall belong to the county from which it has been detached; and whenever any portion of such Provisional Judicial District which at the time of the formation thereof was not included in any township or county, is formed or erected into a township or townships, and attached to any county, the same shall in like manner thereupon immediately cease to belong to or form part of such Provisional Judicial District. R. S. O. 1877, c. 90, s. 30.

When it shall be again separated.

Powers of Justices of the Peace.

46. The Justices of the Peace appointed for a Provisional Judicial District, or for any part or parts of this Province included therein, or wherein the same may be included, whether in General Sessions assembled within such Provisional Judicial District, or out of Sessions, and the Court of General Sessions of the Peace for any Provisional Judicial District shall have, use, exercise and enjoy within such Provisional Judicial District all the jurisdiction, powers and authorities, and discharge and perform all the duties which Justices of the Peace in and for any county, whether in General Sessions assembled or out of Sessions, and the Court of General Sessions of the Peace in and for the county, by law are entitled and required to use, exercise and enjoy, discharge and perform. R. S. O. 1877, c. 90, s. 35.

Certain buildings to be deemed gaols of such Provisional Judicial Districts.

47. All buildings and erections provided by the Commissioner of Public Works by direction of the Lieutenant-Governor in Council for the holding of Courts and for the safe custody of prisoners in any Provisional Judicial District shall for the time being be deemed the Court House and Gaol of such District. R. S. O. 1877, c. 90, s. 31.

Governor may authorize the holding of certain Courts in Districts.

48. The Lieutenant-Governor may issue the necessary commissions authorizing the holding of Courts of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery in any Provisional Judicial District. R. S. O. 1877, c. 90, s. 32.

49. The Lieutenant-Governor may pay to the sheriffs and other officers of every Provisional Judicial District, by way of salary or otherwise, out of any unappropriated moneys belonging to the consolidated revenue fund of this Province, such several sums of money as he may think reasonable for the services performed by such officers respectively. R. S. O. 1877, c. 90, s. 36.

Lieutenant-Governor may pay Sheriff, etc., of such Districts.

50. The sheriff or other officer whose duty it is or who may be legally required to summon and return jurors or persons to serve as jurors, within any of the Provisional Judicial Districts, shall and may select, choose and return for such jurors any of the inhabitants of such Provisional Judicial Districts respectively, without reference to the mode prescribed for selecting, balloting or returning jurors by *The Jurors' Act*; and juries *de medietate lingue*, and juries of a like nature may be ordered by the Court before which any cause in any of the said Provisional Judicial Districts may be pending. R. S. O. 1877, c. 90, s. 37.

Any persons may be returned as jurors in the said Provisional Judicial Districts.

Rev. Stat. c. 52.

51. As soon as a Provisional Judicial District is formed as hereinbefore provided, including any Temporary Judicial District formed under this Act, the provisions herein contained relating to Temporary Judicial Districts, shall cease to have any force therein except so far as may be necessary for supporting any process and proceedings issued, had or taken before or at the time when such Provisional District is formed. R. S. O. 1877, c. 90, s. 38.

Provisions respecting temporary judicial districts not to apply on erection of Provisional Districts.

52. There shall be a District Judge appointed in every Provisional Judicial District, and such Judge shall be a Barrister of not less than five years' standing at the Bar of Ontario; and such Judge shall have the same powers, duties and emoluments as a County Judge, and he shall hold his office during good behaviour, and shall reside within the limits of his Provisional Judicial District, and shall not, directly or indirectly, practise or carry on or conduct any business in the profession or practice of the law while holding his office as Judge, on pain of forfeiting the same, and under a penalty of \$400. R. S. O. 1877, c. 90, s. 33; 50 V. c. 8, Sched.

Judges of such Provisional Districts, their powers, etc.

53.—(1) *The Act respecting the County Judges' Criminal Courts*, shall extend to the Judges of the District Courts of the Districts of Algoma and Thunder Bay, and to the Judge of every Provisional Judicial District hereafter established; and the laws now in force or which may be hereafter passed with respect to Courts of General Sessions of the Peace in Counties, and the powers of the Justices thereat, or with respect to County and Division Courts, or the power, authority or jurisdiction of the Judges of such Courts, whether sitting in or out of Court, and to the appointment and duties of Local Crown Attorneys, Clerks of the Peace, Sheriffs, Coroners, Clerks, Constables and

Rev. Stat. c. 49, extended to Algoma and all future Provisional Judicial Districts.

all other officers attached to such Courts or employed in the administration of justice in connection therewith, shall, unless it is otherwise provided, or unless there is something in the context indicating a different intention, apply to each of the said Provisional Judicial Districts, and to every Provisional Judicial District hereafter established. R. S. O. 1877, c. 90, s. 34; 47 V. c. 14, s. 9.

Where Courts to be held.

(2) Such Courts shall be held in each such new Provisional Judicial District at the place which the Lieutenant-Governor in Council by proclamation from time to time appoints, and the word "District" shall be substituted for the word "County" in the titles of such Courts and officers, as well as in the interpretation of such laws, in their application to such Provisional Judicial Districts. R. S. O. 1877, c. 90, s. 34.

District and Surrogate Courts continued.

54.—(1) The District and Surrogate Courts established for the Provisional Judicial Districts of Algoma and Thunder Bay are hereby continued.

(2) The District Courts respectively are to be presided over by a Judge to be appointed in accordance with the provisions of the *British North America Act, 1867*, and the District Judges shall be the Judges of the Surrogate Courts. 47 V. c. 14, s. 2.

Laws respecting Surrogate Courts or Judges in Counties to apply.

55. The laws now in force, or which may hereafter be passed with respect to Surrogate Courts or Judges in counties and the officers thereof, shall apply to the Surrogate Courts and Judges of Algoma and Thunder Bay. 47 V. c. 14, s. 3.

General Jurisdiction.

56.—(1) Subject to the exceptions in section 58 contained, the District Courts of Algoma and Thunder Bay shall, in addition to the jurisdiction possessed by County Courts, *each* have jurisdiction and hold plea subject to appeal;

(a) In all actions relating to debt, covenant and contract
Provided always, where the case is beyond the jurisdiction of County Courts, that the contract was made within the district, or the cause of action arose therein, or the defendant resides therein;

(b) In replevin, where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$400, and the goods, property, or effects to be replevied are in the said district;

(c) In all other personal actions where the amount claimed does not exceed \$400;

(d) For the recovery of land situate in the district.

(2) After a trial, in an action for the recovery of land, or in replevin where the value of the goods claimed exceeds \$200, or in any other case where the cause of action is beyond the jurisdiction possessed by County Courts, and a verdict or judgment exceeding \$200 is obtained, any party entitled to move to set aside or vary the ver-

dict or judgment, or to enter a non-suit, may, if he so desires, instead of moving in the District Court and without removing the cause into the High Court by *certiorari* or otherwise, move in the High Court for such rule or order as he claims to be entitled to. The motion shall be made in the same manner, and subject to the like limitations as to time and otherwise, as the motion would have been subject to if the action had been in the High Court and had been tried at a sittings thereof, and the judgment or order of the High Court shall be acted upon as if it were a judgment or order of the said District Court. The High Court shall have jurisdiction to make any order, or give any judgment which could be made or given in the cause by the District Court.

(3) Where a party is entitled and desires to move under the next preceding sub-section, he shall notify the clerk of the District Court in writing to transmit the record or certified copy of the pleadings and any exhibits filed at the trial to the Registrar at Toronto of the Division of the High Court in which he intends to move, and subject to any general rules, the subsequent practice shall be the same as in case of a trial in the High Court. 47 V. c. 14, s. 4.

57—(1) The District Courts of the Districts of Algoma and Thunder Bay, shall have the same jurisdiction as the High Court with respect to injunctions restraining the committing of waste or trespass on property, by unlawfully cutting, destroying or removing trees or timber and with respect to incidental relief, and the practice in the exercise of such jurisdiction shall be the same, as nearly as may be, as the practice of the High Court. Jurisdiction in cases of waste and trespass.

(2) The High Court, or a Judge thereof, on the application of any party to the proceeding made on notice, may order that the whole proceeding be transferred to the High Court, or to any Division thereof; and in that case all papers filed in the District Court shall be transmitted by the clerk, or other proper officer of the District Court to the High Court; and the action shall thenceforth be continued and prosecuted in the High Court, as if it had been originally commenced therein. Removal of action into High Court.

(3) The order may be made on such terms as to payment of costs, giving security and otherwise, as the Court or Judge thinks fit. Terms may be imposed.

(4) No such case shall be transferred unless the value of the subject matter or the damage to either party appears to amount to upwards of \$1,000, nor unless the case appears to the Court or Judge fit to be tried in the High Court. 50 V. c. 12, ss. 1-3. In what cases action shall be removable.

58. The said District Courts shall not have jurisdiction in any of the following cases:— Exceptions to jurisdiction.

1. Actions for a gambling debt; or upon a note of hand or other document given wholly or partly in consideration of a gambling debt;

2. Actions for malicious prosecution, libel, slander, criminal conversation, seduction, or breach of promise of marriage, if the damages sought to be recovered exceed \$200.

3. Actions against a Justice of the Peace for anything done by him in the execution of his office, if the damages claimed exceed \$100. 47 V. c. 14, s. 5.

Sittings of
District
Courts.

59. The sittings at the district towns of the District Courts of Algoma and Thunder Bay, for trials and assessments by jury, and of the General Sessions of the said districts, shall be held on the second Tuesday of the months of June and November of each year. 47 V. c. 10, s. 8; c. 14, ss. 6 and 18.

Time allowed
for appearance
to writ issued
in said Dis-
tricts ;

60.—(1) The time allowed for appearance to a writ of summons issued in either of the said districts, whether out of the High Court of Justice or the district Court for service within Ontario, or to a writ of *capias* or replevin issued as aforesaid shall be 20 days after the service of the writ, inclusive of the day of service.

for putting in
special bail ;

(2) The time allowed in any writ of *capias* issued as aforesaid, for putting in special bail, shall be 30 days, inclusive of the day of execution, unless a different time is fixed by the order for the writ.

in ejectment.

(3) The time allowed for appearance to any writ in an action for the recovery of land issued as aforesaid, shall be 30 days, inclusive of the day of service.

Additional
time allowed
when writ
served or
executed
between Nov. 1
and June 30.

(4) Where any of the said writs is served or executed between the 1st day of November and the 30th day of June, or on either of the said days, a defendant shall be entitled to an additional period of ten days for appearing to the writ or putting in special bail.

Same time
allowed when
writ served
or executed in
District as
when issued
there.

(5) The time allowed for appearance to any such writ, issued in any part of Ontario out of the High Court or out of any County Court, served within Algoma or Thunder Bay, and for putting in special bail to any writ of *capias* executed within either of the said districts shall be the same as is hereinbefore provided in the case of a like writ issued therein. 47 V. c. 14, s. 7.

Costs.

61.—(1) Where the amount claimed in any action in the said District Courts, or where in the case of an action for the recovery of land or in replevin the subject matter of the action, as appearing in the writ in the action or in the affidavit filed to obtain the writ in replevin, is beyond the jurisdiction of the County Courts in other parts of Ontario, costs to a successful defendant shall be taxed according to the High Court tariff.

(2) In like manner where the plaintiff recovers in respect to a cause of action beyond the jurisdiction of the County Courts, costs shall be taxed to him according to the High Court

tariff, subject however to his obtaining the certificate or order of the Judge where in a like case such certificate or order is required in the High Court.

(3) In respect to any action within the provisions of the first part of this section the solicitor of an unsuccessful plaintiff shall be entitled to charge his client County Court costs only, unless he was instructed in writing by such client to sue in respect to a matter beyond the jurisdiction of the said County Courts, in which case the said solicitor shall be entitled to charge costs according to the High Court tariff. 43 V. c. 12, s. 11, (1-3); 47 V. c. 14, s. 9.

62.—(1) The Lieutenant-Governor may appoint a sheriff of the said District of Thunder Bay, who shall keep an office at the Town of Port Arthur in the said district. Lieutenant-Governor may appoint a sheriff for Thunder Bay.

(2) All writs and other process requiring to be directed to a sheriff and intended to be executed within that portion of the said District of Thunder Bay which is not included within the District of Rainy River shall be directed to the sheriff of Thunder Bay. Writs to whom be to directed.

(3) *The Act respecting the Office of Sheriff* shall apply to the said sheriff of Thunder Bay and of Rainy River, except that it shall not be necessary for the sheriff to justify in a sum greater than \$2,000 over and above his just debts, nor shall it be requisite that such sheriff shall be possessed of real estate to the said amount. 43 V. c. 12, s. 12 (5); 48 V. c. 20, s. 6 (4). Rev. Stat. c. 16 to apply.

63.—(1) The sheriff of Algoma, Thunder Bay, or Rainy River shall not be required to execute or serve any writ, paper or proceeding for any party other than the Crown, until an amount reasonably sufficient to cover his mileage in travelling for the purpose of executing or serving the writ, paper, or proceeding is paid or tendered to him, unless the distance to be travelled for the purpose of such execution or service is less than ten miles. Sheriff not required to effect service until mileage paid.

(2) Where the distance is less than ten miles such sheriff shall not be required to execute or serve such writ, paper, or proceeding without such reasonable sum as aforesaid being paid or tendered him if he has previously notified the solicitor, or party whose name is endorsed on such writ, paper, or proceeding, or by whom such service is required, that prepayment of mileage will be required before execution or service of any writ, paper or proceeding which such solicitor or party may desire to have served. Provision in case distance less than ten miles.

(3) No sheriff, deputy sheriff, or other officer shall sell or expose for sale under execution, any lands or tenements in the Districts of Algoma, Thunder Bay or Rainy River, except during the months of July, August, September, or October. 43 V. c. 12, s. 12 (6-8); 48 V. c. 20, s. 6 (4). Time for sales of land limited.

Precepts for return of panels dispensed with.

64.—(1) It shall not be necessary to issue precepts for the return of panels of grand or petit jurors for any sittings of the District Court of the Districts of Algoma or Thunder Bay, or of the General Sessions of the Peace for the said districts, if it appears to the Judge of the said District Court that at such sittings there will be no business to be brought before such jurors. R. S. O. 1877, c. 90, s. 40; 47 V. c. 14, s. 9.

Clerk of the Peace and District Court to inform the Judges of necessity for precept.

(2) Where there appears to be need that precepts should issue for the return of panels of jurors aforesaid, it shall be the duty of the Clerk of the Peace of the district, and the Clerk of the District Court, to inform the said Judge thereof, in order that precepts may be issued for the return of jurors at the ensuing sittings of the Court. R. S. O. 1877, c. 90, s. 41; 47 V. c. 14, s. 9.

Precepts when jurors required.

(3) In case jurors are required for either of the said Courts the necessary precepts shall be issued for both of the said Courts. R. S. O. 1877, c. 90, s. 42; 47 V. c. 14, s. 9.

Where jurors required, and no opportunity to summon before the sittings.

65. If the business to be brought before jurors arises so shortly before the sittings, that the jurors cannot reasonably be summoned in sufficient time to attend on the day appointed for the commencement of the sittings, the said Judge may order that the jurors be summoned for a subsequent day, and the said Court shall in such case commence its sittings upon the day by law appointed therefor, and shall dispose of such business as may be disposed of without a jury, and shall be thereafter adjourned to the day for which the jurors are summoned as aforesaid. The Judge may make the order hereinbefore authorized, on the day upon which the sittings of the said Court commence, or upon any earlier day. R. S. O. 1877, c. 90, s. 43; 47 V. c. 14, s. 9.

Sittings of High Court.

66.—(1) Sittings of the High Court, for the trial of civil and criminal causes, and for other purposes shall be held once a year at Sault Ste. Marie and at Port Arthur respectively on such days as may from time to time be appointed therefor by the Judges of the High Court. If the Judges of the High Court upon inquiry ascertain on any occasion that any of the sittings are not required for the due administration of justice it shall not be necessary to appoint a day for the holding thereof. 47 V. c. 14, s. 13. See Chap. 44, s. 90.

Judges to issue precepts for jurors.

(2) In case the sittings are to be held, the Judges of the High Court, or some of them, shall issue the necessary precepts for the summoning of grand and petit jurors. 47 V. c. 14, s. 14.

Appointment of Deputy Clerk.

67.—(1) The Lieutenant-Governor may, from time to time appoint, under the great seal, an officer for the District Court of the Provisional Judicial District of Thunder Bay, to be called the deputy clerk for Rainy River, who shall hold office during pleasure, and shall keep his office at Rat Portage.

(2) In case after an appointment has been made a vacancy occurs in such office, the clerk of the Division Court at Rat Portage shall, *ex-officio*, be deputy clerk until another appointment is made. Vacancy in the office of Deputy Clerk.

(3) The said deputy clerk shall issue writs for the commencement of actions in the District Court, and shall, in respect of actions so commenced and of proceedings therein, perform the like duties and have the like powers and rights as are performed or possessed by the clerk of the District Court at Port Arthur in respect of actions commenced by writs issued out of his office, and of proceedings therein; and the said deputy clerk shall also issue such writs and process as may be required in such actions as may in like cases be issued by the said clerk of the District Court, and may renew any such writs as by law may be renewed. Powers and Duties of Deputy Clerk.

(4) No writ of *capias* issued under the next preceding section shall be executed outside of the District of Rainy River; and every writ of *capias* so issued shall be marked by the clerk as follows: "Only to be executed within the District of Rainy River," but this shall not prevent a copy of such writ of *capias* being served at any place within Ontario. Capias.

(5) The deputy clerk of the said District Court shall have the custody of a seal similar in design to the seal of the Court in the custody of the clerk at Port Arthur, and the said deputy clerk shall seal with the said seal all writs, process and proceedings requiring the seal of the said Court; and every writ, process or proceeding sealed with such seal shall be held to be duly sealed with the seal of the said Court. 48 V. c. 20, s. 2. Seal.

68. In actions arising in the District of Rainy River in which the venue is local the writ shall be issued out of the office of the deputy clerk, and Rat Portage shall be named as the place of trial in the same manner as if the said district was a separate county; but the judge may, if he sees fit, change the place of trial in any action. 48 V. c. 20, s. 3. Venue in actions arising in Rainy River.

69.—(1) The deputy clerk for the Rainy River District of the District Court of Thunder Bay shall, *ex-officio*, be deputy registrar for Rainy River of the Surrogate Court of Thunder Bay; and he shall keep his office of deputy registrar at the same place as he is required by law to keep his office of deputy clerk. Deputy Clerk to be Registrar of Surrogate Court.

(2) Sections 11, 12, 13 and 14 of *The Surrogate Courts Act*, shall apply as nearly as may be to the deputy registrar for Rainy River; and he shall observe and conform to the provisions thereof; and shall perform the like duties, and shall have the like powers and rights, under and by virtue of the said Act, within the District of Rainy River, as are performed or possessed by the registrar of the Surrogate Court for Thunder Bay at Port Arthur; and the latter shall not exercise Rev. Stat. c. 50, ss. 11-14, to apply to Deputy Registrar.

the powers and rights of registrar of the Surrogate Court for Thunder Bay, in regard to applications for probate, or letters of administration, in respect of the will, or estate, of any person who had at the time of his death his fixed place of abode in the District of Rainy River, or of any person who having no fixed place of abode within Ontario had, at the time of his death, real or personal estate in the District of Rainy River and not elsewhere in Thunder Bay, which but for this section would have been exercised by him as registrar of the Surrogate Court for Thunder Bay.

Surrogate
Seal.

(3) The said deputy registrar of Surrogate shall have the custody of a seal similar in design to the seal of the Court in the custody of the registrar, and such seal shall be the seal of the Court for the purpose of sealing all grants, letters, writs, certificates, papers or proceedings in connection with any matter or thing in the office of the said deputy registrar requiring to be sealed. 48 V. c. 20, s. 4.

Sittings of
Surrogate
Court.

70. The Surrogate Court for Thunder Bay shall, at Rat Portage, in the District of Rainy River, in respect of matters arising within the District of Rainy River, and at Port Arthur in respect of matters arising within the rest of the Provisional Judicial District of Thunder Bay, hold such sittings as the Judge of the Surrogate Court of the Provisional Judicial District of Thunder Bay may think proper and necessary, but the said Judge may, when he deems it more convenient for the parties interested, perform any judicial or ministerial act affecting either of the said Surrogate divisions in the other of such divisions. 48 V. c. 20, s. 5.

Appointment
of Sheriff of
Rainy River.

71.—(1) The Lieutenant-Governor may appoint a sheriff of the said District of Rainy River, who shall keep his office at Rat Portage.

(2) All writs and other process requiring to be directed to a sheriff and intended to be executed within the said District of Rainy River shall be directed to the said sheriff. 48 V. c. 20 s. 6, (1, 2).

Sittings of
District
Court.

72.—(1) Besides the sittings at the district town, the District Court of Thunder Bay shall hold sittings on the first Tuesday of the month of June and the fourth Tuesday of the month of November of each year, at Rat Portage, for trials and assessments by jury and sittings of the General Sessions of the Peace of Thunder Bay shall be held on the same days.

Sittings of
General Ses-
sions.

Trial of ap-
peals.

(2) The said General Sessions of the Peace shall be for the trial of causes within the jurisdiction of the General Sessions where the offence to be tried was committed within the District of Rainy River, and for the trial of appeals to the General Sessions from a decision, order or conviction made by a Justice of the Peace within such district. 48 V. c. 20, s. 9.

COURTS IN DISTRICTS AND PROVISIONAL COUNTIES.

73.—(1) The Judge of any County or District Court to whose jurisdiction any district or provisional county belongs, may appoint additional sittings of the County or District Court and of the Court of the General Sessions of the Peace, or of either of such Courts, to be held at such place or places within such district or provisional county as he thinks fit.

(2) Such sittings of the County Court shall be for the trial of causes, where the contract was made within the district or provisional county; or if the action is not upon contract, then where the cause of action arose within the district or provisional county.

(3) Such Sessions of the Peace shall be for the trial of causes within the jurisdiction of the General Sessions of the Peace, provided the offence to be tried was committed within the district or provisional County. R. S. O. 1877, c. 90, s. 52.

74. Sittings in any of the said Courts shall also be held at such times and places as the Lieutenant-Governor in Council may appoint. R. S. O. 1877, c. 90, s. 53.

75.—(1) In case the Lieutenant-Governor directs sittings of the Court of General Sessions of the Peace of any county or district to be held at regular periods at some place within a district or provisional county, and issues his proclamation in that behalf, such sittings shall thereafter be the proper Court for the trial of appeals to the General Sessions from a decision, order or conviction, made by a Justice of the Peace within such district or provisional county, and such Court shall have full and complete jurisdiction and authority for the trial of every such appeal, as well as for the trial, under section 73 of this Act, of any person charged with an offence committed within the district or provisional county over which the Sessions have jurisdiction.

(2) Where an offender may be more conveniently tried within that portion of the county or district outside of such district or provisional county, such offender may be so tried. R. S. O. 1877, c. 90, s. 54.

76. The High Court or a Judge thereof may direct that any action for the recovery of lands lying in the provisional judicial district, territorial district, or provisional county in which any sittings of a County or District Court are to be held, or any other action pending in the High Court, shall be tried at such sittings; or may order that the witnesses shall be examined and the facts ascertained at such sittings and the questions of law arising thereon reserved for the opinion of the Court; or may make such like order for the purpose of facilitating the determination of the matters in dispute in the action as he may think fit. R. S. O. 1877, c. 90, s. 55 (1).

Summoning jurors.

Rev. Stat. c. 52.

77. When such sittings are held in a provisional county the sheriff or other officer whose duty it is, or who may be legally required, to summon and return jurors or persons to serve as jurors for such Courts, may select, choose and return for such jurors, in case jurors are required, any of the inhabitants of such provisional county, without reference to the mode prescribed for selecting, balloting or returning jurors by *The Jurors' Act*. R. S. O. 1877, c. 90, s. 56.

CONSTABLES IN DISTRICTS AND PROVISIONAL COUNTIES.

Constables in Territorial Districts.

78.—(1) The Lieutenant-Governor may from time to time appoint Constables for any district or provisional county or for any portion of the territory of Ontario not attached to a county for ordinary municipal and judicial purposes. R. S. O. 1877, c. 90, s. 46. *See also* Cap. 71, s. 3; Cap. 80, s. 1; Cap. 82, s. 11.

Suspension for misconduct.

(2) In case of any misconduct on the part of a constable appointed under the preceding sub-section, the Chairman of the Court of General Sessions of the Peace of the district, or provisional county or the Stipendiary Magistrate, shall have authority to suspend from office indefinitely, or for any period the said Chairman or Stipendiary Magistrate deems fitting. R. S. O. 1877, c. 90, s. 47; 50 V. c. 8. Sched.

Report of such suspension to Provincial Secretary.

(3) The Chairman of the Sessions or the Stipendiary Magistrate, upon any such constable being suspended, shall forthwith report the particulars thereof to the Provincial Secretary, in order that the Lieutenant-Governor may take such action as to the revocation of the suspension or dismissal of such constable, or otherwise, as he deems proper. R. S. O. 1877, c. 90, s. 48.

Punishment of constable misbehaving.

79. If a constable appointed under the authority of this Act is guilty of disobedience of orders, neglect of duty, or of any misconduct as such constable, and is convicted thereof before the Stipendiary Magistrate for the district, or before a Justice of the Peace acting therein, he shall forfeit a sum to be fixed by the Magistrate or Justice not exceeding \$40 and costs, and in default of immediate payment thereof, shall suffer imprisonment for any time not exceeding three months unless the fine and costs are sooner paid; but in such case such person is proceeded against by indictment for any offence committed by him as constable, he shall not in addition be liable to the penalty or punishment imposed by this section. R. S. O. 1877, c. 90, s. 51.

ALTERATION OF LIMITS.

Lieut.-Gov. may alter limits of districts.

80.—(1) The Lieutenant-Governor in Council may from time to time, by proclamation, detach any township or territory from any provisional judicial, temporary judicial, or territorial

district, and annex the same to any adjoining district. R. S. O. 1877, c. 7, s. 28; 43 V. c. 12, s. 2; 47 V. c. 3, s. 9, and c. 14, s. 16, (4).

(2) In case a portion of a county is detached from a county, or from a provisional judicial or other district, and formed into or annexed to a temporary judicial, or territorial district, the Justices of the Peace residing in the territory so detached, shall be Justices of the Peace for the Temporary Judicial, or Territorial District in which they reside at the time of the same being so detached, and shall not act out of Sessions as Justices of the Peace for the County or Provisional Judicial District. R. S. O. 1877, c. 90, s. 50.

Position of Justices of the Peace in territory affected by alteration.

81. The Lieutenant-Governor may from time to time direct that one or more suitable erections shall be provided by the Commissioner of Public Works in each district or provisional county for the safe custody of prisoners charged with crime or convicted of any offence, and every erection so provided shall be deemed a common gaol, and the common gaol of such district or county. R. S. O. 1877, c. 90, ss. 5, 57.

Gaols to be provided.

TRESPASSES BY ANIMALS.

82. No damages shall be recovered in respect of injuries committed in any of the said districts upon any land by horses, cattle, sheep or swine, straying upon such land, unless the animal so straying was running at large contrary to a municipal by-law in that behalf; and where no by-law, prohibiting or regulating the running at large of the class of animals to which the animal trespassing belongs, is in force in the municipality, township, or place, then no such damages shall be recovered unless such animal has broken through or jumped over a fence then being in reasonably good order and of the height of four and one-half feet; but this section shall not apply to unruly or breachy animals. 42 V. c. 31, s. 32.

Damages by animals trespassing.

9. ADMINISTRATION OF JUSTICE IN THE VICINITY
OF THE FALLS OF NIAGARA.

CHAPTER 92.

An Act to provide for the better Government of that part of Ontario situated in the Vicinity of the Falls of Niagara.

APPOINTMENT OF POLICE MAGIS-	APPEALS, s. 7.
TRATE, s. 1.	CONSTABLES, s. 8.
POWERS AND DUTIES, ss. 2-6	EXPENSES UNDER THIS ACT, s. 9.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Appointment
of Police
Magistrate.

1. The Lieutenant-Governor in Council may, from time to time, appoint a fit and proper person to be Police Magistrate for the Town of Niagara Falls in the County of Welland. R. S. O. 1877 c. 91, s. 1.

Powers and
duties of Police
Magistrate.

2. The Police magistrate shall be *ex officio* a Justice of the Peace of and for the County of Lincoln, and of and for the county of Welland; and may exercise within the said counties the jurisdiction and authority of two Justices of the Peace in relation to all matters in respect to which the Legislature of this Province has authority so to enact. R. S. O. 1877, c. 91, s. 2.

Police Court
at Fort Erie.

3. The Police Magistrate shall, as often as he considers necessary, or in case the Lieutenant-Governor in Council gives a direction in that behalf, then as often as the Lieutenant-Governor in Council directs, hold a Police Court in the village of Fort Erie. R. S. O. 1877, c. 91, s. 3.

What com-
plaints to be
heard.

4. Subject to the provisions of the preceding section, it shall not be the duty of the Police Magistrate, unless he finds it convenient so to do, to entertain any complaint except with reference to offences committed within the limits of the town of Niagara Falls or of the township of Stamford; and he shall, as far as practicable, give precedence to complaints in which persons

residing at a distance are concerned, either as parties or as witnesses, over complaints concerning only persons residing in the neighbourhood. R. S. O. 1877, c. 91, s. 4.

5. In addition to any other penalty imposed by any statute or by any by-law of the municipality, as a punishment for any offence, the Police Magistrate shall have authority to inflict as an additional punishment, the revocation or the suspension for such period as he may consider just, of any license granted or issued to the person convicted by the municipal officers of the town of Niagara Falls or of the township of Stamford, or of the village of Fort Erie, or of the township of Bertie, or granted or issued by the Board of License Commissioners or Inspector of Licenses, within whose license district any of said municipalities respectively is situate. R. S. O. 1877, c. 91, s. 5. Power of revocation of licenses.

6. The Police Magistrate shall, in all cases of complaint under this Act, reduce to writing the whole of the evidence of the witnesses examined before him, and shall read the same over to the witnesses, who shall sign the same. R. S. O. 1877, c. 91, s. 6. Evidence to be reduced to writing.

7. An appeal shall lie from a conviction had under this Act to the Judge of the County Court of the county in which the conviction is made, without a jury: and except as aforesaid, no appeal shall lie either to any Court of General Sessions of the Peace, or to any other Court, from the conviction or order of the Police Magistrate, for an offence against any statute relating to matters within the legislative authority of the Legislature of this Province, or for an offence against a by-law of a municipality. R. S. O. 1877, c. 91, s. 7. Appeals.

8.—(1) The Lieutenant-Governor may appoint as many constables as he may consider requisite for the efficient administration of justice in the neighbourhood of the Falls of Niagara. Appointment of constables.

(2) No constable shall be entitled to charge any fees for his own use. R. S. O. 1877, c. 91, s. 8.

9.—(1) The Police Magistrate shall keep proper accounts of all fines, penalties and costs imposed in the Police Court of the said town of Niagara Falls and village of Fort Erie, or elsewhere imposed by him; and shall immediately upon such fines, penalties and costs (other than fines arising from prosecutions under *The Liquor License Act*.) being collected and received, or at such periods as the Treasurer of Ontario from time to time directs, deposit the amount thereof in such bank as the Treasurer from time to time directs, to the credit of a fund to be called the "Niagara Falls Police Fund." Police Magistrate to keep accounts of fines, etc. Deposit of fines, etc. Rev. Stat. c. 194.

(2) All fines from prosecutions under *The Liquor License Act*, shall form part of the license fund of the district, to be dealt with as provided by said Act. R. S. O. 1877, c. 91, s. 9. Rev. Stat. c. 194.

SECTION VII.

LAW OF PROPERTY.

1. *In General.*

- CHAP. 93.—LAW OF ENGLAND ADOPTED p. 895.
 " 94.—CROWN DEBTORS, p. 896.
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 " 97.—POWERS OF ATTORNEY, p. 901.
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 " 99.—RIGHTS OF ALIENS IN REAL PROPERTY, p. 903.
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 " 101.—PETTY TRESPASSES, p. 915.
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2. *Intestate Succession.*

- CHAP. 108.—DEVOLUTION OF ESTATES, p. 975.

3. *Wills and Executors.*

- CHAP. 109.—WILLS, p. 988.
 " 110.—TRUSTEES AND EXECUTORS, p. 998.

4. *Confirmation and Evidence of Title.*

- CHAP. 111.—LIMITATIONS OF ACTIONS IN RESPECT TO REAL ESTATE, p. 1011.
 " 112.—EVIDENCE BETWEEN VENDOR AND PURCHASER, p. 1025.
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CHAPTER 93.

An Act adopting the Law of England in Certain Matters.

WHEREAS by the first Act passed in the first Session of the Parliament of Upper Canada, on the 15th day of October, 1792, it was among other things enacted, that in all matters of controversy relative to property and civil rights, the laws of England should be the rule for the decision of the same, and that all matters relative to testimony and legal proof in the investigation of fact should be regulated by the rules of evidence established in England, but that nothing therein contained should extinguish, release, discharge or affect any right, lawful claim or incumbrance to and upon any lands, tenements or hereditaments within Upper Canada, or should rescind, vacate or affect any contract or security then made and executed conformably to the Laws of Canada under the Imperial Statute passed in the fourteenth year of the reign of His Majesty King George the Third, intituled “*An Act for making more effectual provision for the Government of the Province of Quebec, in North America*,” or vary or interfere with any of the subsisting provisions respecting ecclesiastical rights or dues, or should introduce any of the laws of England respecting the maintenance of the poor, or respecting bankrupts;

Therefore, subject to the exceptions and provisions above recited, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The law of England on 15th Oct., 1792, to be the rule of decision.

1. In all matters of controversy relative to property and civil rights, resort shall continue to be had to the laws of England as they stood on the said 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the several Courts in Ontario, shall continue to be regulated by the rules of evidence established in England, as they existed on the day and year last aforesaid—except so far as the said laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario, or by these Revised Statutes. R. S. O. 1877, c. 92, s. 1.

English Statutes of Jeofails, etc., before 17th Jan., 1822, adopted.

2. The Statutes of Jeofails, of Limitations, and for the amendment of the law, excepting those of mere local expediency, which previous to the 17th day of January, 1822, had been enacted respecting the law of England and then continued in force, shall be valid and effectual for the same purposes in Ontario, excepting so far as the same have, since the day last aforesaid, been repealed, altered, varied, modified or affected in the manner mentioned in section 1 of this Act. R. S. O. 1877, c. 92, s. 2. *See also* Caps. 60, 111.

CHAPTER 94.

An Act respecting Crown Debtors.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Bonds, etc., to the Crown, to bind only such property as would be bound in other cases.

1. No bond, covenant or other security made or entered into since the 15th day of August, 1866, or hereafter made or entered into by any person to Her Majesty, Her Heirs or Successors, or to any person on behalf of or in trust for Her Majesty, Her Heirs or Successors, shall bind the real or personal property of the persons so making and entering into such bond, covenant or other security, to any further, other or greater extent than if the bond, covenant or other security had been made or entered into between subject and subject of Her Majesty. R. S. O. 1877, c. 93, s. 1.

And so as to property of Crown debtors.

2. The real or personal property of any debtor to Her Majesty, Her Heirs or Successors, or to any person in trust for or on behalf of Her Majesty, Her Heirs or Successors, for any

debt since the said date or hereafter contracted, shall be bound only to the same extent and in the same manner as the real or personal property of a debtor where a debt is due from one subject of Her Majesty to another. R. S. O. 1877, c. 93, s. 2.

3. From and after the 1st day of January, 1874, lands theretofore bound by the registration, in the office of the Clerk of the Court of Queen's Bench in Toronto, of any deed, bond, contract or other instrument whereby a debt, obligation or duty is incurred or created to Her Majesty, in respect of any matter within the authority of the Government of Ontario, shall be released from the charge created by such registration. R. S. O. 1877, c. 93, s. 3.

Crown liens by registry of bonds, etc., in Q.B. abolished as to Ontario,

4. Nothing in the last section contained shall be construed to affect the obligations of the parties to such deed, bond, contract or other instrument, to Her Majesty, or to each other, or to release any charge which may have been, previous to the said first day of January, obtained against such lands by virtue of any writ or other proceeding. R. S. O. 1877, c. 93, s. 4.

except where proceedings had already caused a charge.

CHAPTER 95.

An Act respecting Escheats and Forfeitures.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where lands, tenements or hereditaments situate in this Province have escheated to the Crown by reason of the person last seised thereof, or entitled thereto, having died intestate, and without lawful heirs, or have become forfeited for any cause except crime, the Attorney-General may cause possession of the lands, tenements or hereditaments to be taken in the name of the Crown; or, in case possession is withheld, he may cause an action to be brought for the recovery thereof, without any inquisition being first necessary. R. S. O. 1877, c. 94, s. 1.

Attorney-General may take possession of, or bring action for recovery of, escheated or forfeited lands without inquest of office.

2. The proceedings in the action may be in all respects similar to those in other actions for the recovery of land. R. S. O. 1877, c. 94, s. 2.

Proceedings.

3. The Lieutenant-Governor in Council may make any grant of lands, tenements or hereditaments, which have heretofore so escheated or become forfeited or hereafter escheat or become forfeited for any cause except crime, or of any portion thereof,

Lieutenant-Governor may make grants of escheated or forfeited lands.

or of any interest therein, to any person, for the purpose of transferring or restoring the same to any person or persons having a legal or moral claim upon the person to whom the same had belonged, or of carrying into effect any disposition thereof which such person may have contemplated, or of rewarding any person making discovery of the escheat, or forfeiture as to the Lieutenant-Governor in Council may seem meet. R. S. O. 1877, c. 94, s. 3.

Grant may be made without entry or inquest of office being first found.

4. Any such grant may be made without actual entry or inquisition being first necessary, and although the lands, tenements or hereditaments are not in the actual possession of the Crown, and notwithstanding that some person claims title thereto adversely to the person whose estates the same had been; and in case possession of the lands, tenements, or hereditaments is withheld, the person to whom the grant is made shall thereupon be entitled to institute in any Court of competent jurisdiction proceedings for the recovery of the said lands, tenements or hereditaments. R. S. O. 1877, c. 94, s. 4.

Lieutenant-Governor may release forfeited property or waive the forfeiture.

5. Where a forfeiture takes place of any lands, tenements or hereditaments, or any interest therein, as aforesaid, the Lieutenant-Governor in Council may waive or release any right which the Crown may thereby have become entitled to, so as, by the waiver or release, to vest the property, either absolutely or otherwise, in the persons who would have been entitled thereto but for the forfeiture; and the waiver or release may be either for valuable consideration or otherwise, and may be upon such terms and conditions as to the Lieutenant-Governor in Council may seem fit. R. S. O. 1877, c. 94, s. 5.

Lieutenant-Governor may assign personalty to which the Crown has become entitled.

6. The Lieutenant-Governor in Council may make any assignment of personal property to which the Crown is entitled by reason of the person last entitled thereto having died intestate and without leaving any kin or other persons entitled to succeed thereto, or by reason of the same having become forfeited to the Crown, for any cause except crime, or may make an assignment of any portion of such personal property, for the purpose of transferring or restoring the same to any person or persons having a legal or moral claim upon the person to whom the same had belonged, or for carrying into effect any disposition thereof which such person may have contemplated, or of rewarding the person making discovery of the right of the Crown to such property, as to the Lieutenant-Governor in Council may seem meet. R. S. O. 1877, c. 94, s. 6.

CHAPTER 96.

An Act respecting Voluntary and Fraudulent Conveyances.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

VOLUNTARY CONVEYANCES.

1. Notwithstanding the provisions of the statute passed in the 27th year of the reign of Her late Majesty Queen Elizabeth, and chaptered four, no conveyance, grant, charge, lease, estate, incumbrance, limitation of use or uses which is executed in good faith, and duly registered in the proper registry office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to any subsequent purchaser from the same grantor of the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of the same, shall be or be deemed or taken to be, merely by reason of the absence of a valuable consideration, void, frustrate, or of none effect as against such purchaser, or his heirs, executors, administrators or assigns, or any person claiming by, from, or under any of them. R. S. O. 1877, c. 95, s. 11.

No voluntary conveyance, etc., executed in good faith and duly registered to be void merely from absence of valuable consideration

2. Nothing in the preceding section contained shall have the effect of making valid any instrument which is for any reason other than or in addition to the absence of a valuable consideration void under the said statute or otherwise; nor shall anything in the preceding section contained have the effect of making valid any instrument as against a purchaser who had, before the 28th day of February, 1868, entered into a binding contract for, or received his conveyance upon such purchase. R. S. O. 1877, c. 95, s. 12.

Instruments otherwise void not to be valid under preceding section.

FRAUDULENT CONVEYANCES.

3. Whereas by the first and second clauses of the Act passed in the 13th year of the reign of Her late Majesty Queen Elizabeth, it is enacted as follows:—

Recital of ss. 1 and 2 of 13 Eliz. c. 5, that conveyances,

“For the avoiding and abolishing of feigned, covinous and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions more commonly used and practised in these days than hath been seen or heard of heretofore, which feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions have been and are devised or contrived of malice, fraud, covin, collusion or

judgments, etc., to hinder or defraud creditors be void.

"guile, to the end, purpose and intent to delay, hinder and defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, not only to the let or hindrance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, bargain and chevi- sance between man and man, without the which no common- wealth or civil society can be maintained or continued; all and every feoffment, gift, grant, alienation, bargain and con- veyance of lands, tenements, hereditaments, goods and chat- tels, or of any of them, or of any lease, rent, common or other profit or charge out of the same lands, tenements, heredita- ments, goods and chattels, or any of them, by writing or other- wise, and all and every bond, writ, judgment and execution, at any time had or made since the beginning of the Queen's Majesty's reign, that now is or at any time hereafter to be had or made to or for any intent or purpose before declared or expressed, shall be from thenceforth deemed and taken only as against that person or persons, his or their heirs, suc- cessors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, by such guileful, covinous and fraudulent devices and practices as is aforesaid, are or shall or might be in any ways disturbed, hindered, de- layed or defrauded, to be clearly and utterly void, frustrate and of none effect, any pretence, colour, feigned consideration expressing of use or any other matter or thing to the contrary notwithstanding."

And whereas it is also by the sixth clause of the said Act provided and enacted as follows :

Recital of s. 6, 13 Eliz. c. 5, that that Act should not extend to any interest conveyed for good consideration, *bona fide*, without notice of fraud.

"This Act or anything herein contained shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattels had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured, which estate or interest is or shall be upon good consideration and *bona fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not hav- ing at the time of such conveyance or assurance to them made any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid, anything before mentioned to the contrary thereof notwithstanding."

And whereas there are doubts as to the true construction of the said Act, and it is expedient to declare the true construc- tion of the same :

Therefore it is enacted as follows:—

Valuable consideration and intent to pass the interest shall

1. The first and second clauses of the said Act apply to all instruments executed to the end, purpose and intent in the said clauses set forth, notwithstanding that the same may be ex-

executed upon a valuable consideration, and with the intention, as between the parties to the same, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless the same is protected under the sixth clause of the said Act by reason of *bona fides* and want of notice or knowledge on the part of the purchaser.

not done
prevent the
application of
ss. 1, 2, unless
on acquisition
bona fide,
without notice
of fraud.

2. This section shall not apply to any instrument executed before the second day of March, 1872. R. S. O. 1877, c. 95, s. 13.

Instruments
not affected.

CHAPTER 97.

An Act respecting Powers of Attorney.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that the same may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing the same, or provides by any form of words that the same shall not be revoked by the death of the person executing the same, such provision shall be valid and effectual to all intents and purposes, according to the tenor and effect thereof, and subject to such conditions and restrictions, if any, as may be therein contained. R. S. O. 1877, c. 95, s. 14.

As to a power
of attorney
provided ex-
pressly to be
exercised after
decease of
constituent.

2. Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, shall, notwithstanding such death or act last aforesaid, be valid as respects every person party to such payment or act, to whom the fact of the death, or of the doing of such act as last aforesaid, was not known at the time of such payment or act *bona fide* done as aforesaid, and as respects all claiming under such last mentioned person. R. S. O. 1877, c. 95, s. 15.

As to things
done and
powers of
attorney after
the decease,
etc., of con-
stituents,
without such
special pro-
visions.

CHAPTER 98.

An Act respecting the right of Property in Swarms of Bees.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Bees in a state of freedom to be the property of their discoverer.

1. Bees living in a state of freedom shall be the property of the person discovering them, whether he is or is not the proprietor of the land on which they have established themselves. R. S. O. 1877, c. 96, s. 1.

Bees reared in hives to be private property.

2. Bees reared and kept in hives shall be private property. R. S. O. 1877, c. 96, s. 2.

[As to exemption from seizure under execution, See Cap 64, s. 2 (?).]

Rights of owner in case of bees abandoning their hives.

3. Where a swarm of bees leaves a hive the owner may reclaim them, so long as he can prove his right of property therein, and shall be entitled to take possession of them at any place on which the swarm settles, even if such place be on the land of another person, but the owner shall notify the proprietor of such land beforehand and compensate him for all damages. If a swarm settles in a hive which is already occupied, the owner shall lose all right of property in such swarm. R. S. O. 1877, c. 96, s. 3.

Proviso.

Unpursued swarms.

4. Any unpursued swarm which lodges on any property whatsoever, without settling thereon, may be secured by the first comer unless the proprietor of the land objects. R. S. O. 1877, c. 96, s. 4.

Property where owner declines to follow his bees.

5. If the owner of a swarm of bees declines to follow the swarm, and another person undertakes the pursuit, such other person shall be substituted in the rights of the owner, and every swarm which is not followed shall become the property of the proprietor of the land on which it settles, without regard to the place from which it has come. R. S. O. 1877, c. 96, s. 5.

CHAPTER 99.

An Act respecting the rights of Aliens in relation to Real Property.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. On and from the 23rd day of November, 1849, every alien shall be deemed to have had and shall hereafter have the same capacity to take by gift, conveyance, descent, devise, or otherwise howsoever, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in this Province, as natural born or naturalized subjects of Her Majesty. Aliens to have the same powers as to real estate as subjects of Her Majesty. R. S. O. 1877, c. 97, s. 1.

2. The real estate in this Province of an alien dying intestate, shall descend and be transmitted as if the same had been the real estate of a natural born or naturalized subject of Her Majesty. Descent of real estate of aliens. R. S. O. 1877, c. 97, s. 2.

3. Nothing herein contained shall alter, impair or affect or be construed to alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever before the 23rd day of November, 1849. Provido as to rights before 23rd November, 1849. R. S. O. 1877, c. 97, s. 3.

CHAPTER 100.

An Act respecting the Law and Transfer of Property.

INTERPRETATION, s. 1.	PROVISION FOR SALES FREE FROM INCUMBRANCES, s. 15.
CORPOREAL TENEMENTS TO LIE IN GRANT AS WELL AS LIVERY, s. 2.	PAYMENT INTO COURT AND APPLICATIONS, s. 16.
FEOFFMENTS TO BE BY DEED AND INNOCENT, s. 3.	IMPLIED COVENANTS, s. 17.
WORDS OF LIMITATION UNNECESSARY, s. 4.	POWERS, MODE OF EXECUTION, ETC., ss. 18-20.
CONVEYANCE BY A PERSON TO HIMSELF, s. 5.	AUCTIONS OF ESTATES, ss. 21-26.
RECEIPT IN DEED SUFFICIENT, s. 6.	RENT CHARGE, EFFECT OF PARTIAL RELEASE, s. 27.
RIGHTS OF PURCHASER AS TO EXECUTION OF DEED, s. 7.	SCINTILLA JURIS NO LONGER NECESSARY, s. 28.
PARTITION, EXCHANGE, ETC., TO BE BY DEED, s. 8.	CONTINGENT REMAINDER NOT TO BE DEFEATED BY FORFEITURE, SURRENDER OR MERGER OF PRECEDING ESTATE, s. 29.
CONTINGENT INTERESTS, ETC., MAY BE DISPOSED OF BY DEED, s. 9.	IMPROVEMENTS MADE UNDER MISTAKE OF TITLE, ss. 30-32.
WORDS "GRANT" AND "EXCHANGE;" EFFECT OF, s. 10.	PURCHASES OF REVERSIONS, ss. 33-35.
CONVEYANCE TO INCLUDE WHOLE ESTATE, s. 12.	PURCHASER FOR VALUE WITHOUT NOTICE, s. 36.
DEEDS OF BARGAIN AND SALE, BY CORPORATIONS, s. 13.	FRAUDS ON SALES AND MORTGAGES, s. 37.
DEEDS OF BARGAIN AND SALE, ENROLMENT UNNECESSARY, s. 14.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpre-
tation.

1. Where the words following occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

"Land."

1. "Land" shall extend to messuages, lands, tenements and hereditaments, whether corporeal or incorporeal, and to any undivided share thereof, and to any estate or interest therein, and to money subject to be invested in the purchase of land or of any interest therein. R. S. O. 1877, c. 98, s. 1 (1); 49 V. c. 20, s. 3 (2).

"Mortgage."

2. "Mortgage" shall include every instrument by virtue whereof land is in any manner conveyed, assigned, pledged or charged as security for the repayment of money or money's worth lent, and to be reconveyed, re-assigned or released on satisfaction of the debt. R. S. O. 1877 c. 98, s. 1 (3).

3. "Mortgagor" shall include every person by whom any "Mortgagor." such conveyance, assignment, pledge or charge as aforesaid is made.

4. "Mortgagee" shall include every person to whom or in "Mortgagee." whose favour any such conveyance, assignment, pledge or charge as aforesaid is made or transferred. R. S. O. 1877, c. 98, s. 1 (4, 5).

5. "Property" shall include real and personal property, "Property." and any debt, and any thing in action, and any other right Imp. Act, 44-45 V. c. 41. s. 2. or interest. 49 V. c. 20, s. 3 (1).

6. "Conveyance" shall include feoffment, grant, assignment, "Convey- appointment, lease, settlement, and other assurance, and covenant ance." to surrender, made by deed, on a sale, mortgage, demise, or settle- ment of any property or on any other dealing with or for any property; and "convey" has a meaning corresponding with "Convey." that of conveyance. R. S. O. 1877, c. 98, s. 1 (2); 49 V. c. 20, s. 3 (3).

7. "Purchaser" shall include a lessee or mortgagee, and an "Purchaser." intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property; and "purchase" has a meaning corresponding with that of pur- "Purchase." chaser; but sale means only a sale properly so called. 49 V. c. 20, s. 3 (6).

2. All corporeal tenements and hereditaments shall, as re- Corporeal ten- gards the conveyance of the immediate freehold thereof, be ements, etc., deemed to lie in grant as well as in livery. R. S. O. 1877, c. 98, s. 2. deemed to lie in grant, etc.

3. A feoffment otherwise than by deed shall be void at law. Feoffments unless by deed to be void. and no feoffment shall have any tortious operation. R. S. O. 1877, c. 98, s. 3.

4.—(1) In a deed, or other instrument, it shall not be Words of necessary, in the limitation of an estate in fee simple to use limitation unnecessary. the word heirs; or in the limitation of an estate in tail to use the words heirs of the body; or in the limitation of an estate in tail male or in tail female, to use the words heirs male of the body, or heirs female of the body. Imp. Act, sec. 51.

(2) For the purpose of such limitation it shall be suffi- cient in a deed, or other instrument, as in a will to use the words in fee simple, in tail, in tail male, or in tail female, according to the limitations intended, or to use any other words sufficiently indicating the limitation intended.

(3) Where no words of limitation are used, a conveyance Provision for shall pass all the estate, right, title, interest, claim and demand, all the estate, etc. which the conveying parties respectively have, in, to, or on the property conveyed, or expressed or intended so to be, or which they respectively have power to convey in, to, or on the same. Imp. Act, sec. 63. This sub-section applies only if and as far as a contrary inten-

tion does not appear from the conveyance, and shall have effect subject to the terms of the conveyance and to the provisions therein contained.

(4) This section applies only to conveyances made after the 1st day of July, 1886. 49 V. c. 20, s. 4.

Conveyance
by a person to
himself, etc.
Imp. Act, sec.
50.

5. Freehold land or chattels real may be conveyed by a person to himself jointly with another person, by the like means by which the same might be conveyed by him to another person; and may, in like manner, be conveyed by a husband to his wife and by a wife to her husband, alone or jointly with another person. R. S. O. 1877, c. 95, s. 10; 49 V. c. 20, s. 6.

Receipt in
deed suffi-
cient.

Imp. Act, ss.
54, 55.

6. A receipt for consideration money or securities contained in the body of a conveyance shall be a sufficient discharge to the person paying or delivering the same, without any further receipt being indorsed on the conveyance, and shall, in favour of a subsequent purchaser not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof. 49 V. c. 20, s. 10.

Rights of pur-
chaser as to
execution of
purchased deed.
Imp. Act, s. 8.

7. On a sale, the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or in that of his solicitor, as such; but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. 49 V. c. 20, s. 11 (1).

Partition or
exchange of
land, etc.,
unless by deed
to be void.

8. A partition and an exchange of land, and a lease required by law to be in writing of land, and an assignment of a chattel interest in land, and a surrender in writing of land not being an interest which might by law have been created without writing, shall be void at law, unless made by deed. R. S. O. 1877, c. 98, s. 4.

Certain inter-
ests in land
may be dispos-
ed of by deed.

9. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed; but no such disposition shall by force only of this Act defeat or enlarge an estate tail. R. S. O. 1877, c. 98, s. 5; 47 V. c. 19, s. 22.

No implied
warranty, etc.,
to be created
by the word
"grant" or
"exchange."

10. Neither of the words "grant," or "exchange," in any deed, shall create any warranty or right of re-entry, or covenant by implication except in cases where by any Act in force in Ontario, it is declared that the word "grant" shall have such effect. R. S. O. 1877, c. 98, s. 6.

11. The preceding three sections of this Act shall not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1856, but they shall extend to and have operation and effect on and from that day. R. S. O. 1877, c. 98, s. 7.

Preceding three sections not to extend to deeds, etc., executed before 1st January, 1850.

12.—(1) Every conveyance of land, unless an exception is specially made therein, shall be held and construed to include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands therein comprised, belonging or in anywise appertaining, or with the same demised, held, used, occupied and enjoyed, or taken or known as part or parcel thereof; and if the same purports to convey an estate in fee, also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same lands, and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, of the grantor, in, to, out of, or upon the same lands, and every part and parcel thereof, with their and every of their appurtenances.

Conveyance to include all houses, etc., and the reversion, and all the estate, etc.

(2) Except as to conveyances under the former Acts relating to short forms of conveyances, this section applies only to conveyances made after the 1st day of July, 1886. R. S. O. 1877, c. 102, s. 4; 49 V. c. 20, s. 5.

13. Any corporation aggregate in Ontario, capable of taking and conveying land, shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale, in like manner as any person in his natural capacity, subject nevertheless to any general limitations or restrictions and to any special provisions as to holding or conveying real estate which may be applicable to such corporation. R. S. O. 1877, c. 98, s. 8.

Corporations aggregate may convey by bargain and sale.

14. No deed of bargain and sale of land in Ontario, executed subsequently to the 6th day of March, 1834, shall require enrolment or registration to supply the place of enrolment, for the mere purpose of rendering such bargain and sale a valid and effectual conveyance for passing the land thereby intended to be bargained and sold, but this shall not affect any question of priority under *The Registry Act*, or any Act heretofore in force respecting the registration of instruments relating to real estate. R. S. O. 1877, c. 98, s. 9.

Enrolment or registration not necessary to validity of deeds of bargain and sale.

This shall not affect priority under Rev. Stat. c. 114.

15.—(1) Where land subject to any incumbrance, whether immediately payable or not, is sold by the Court or out of Court, the Court may, if it thinks fit, on the application of any party to the sale, direct or allow payment into Court—in case

Provision for sales free from incumbrances. Imp. Act, s. 5.

of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land—of such amount as, when invested in securities approved by the Court, the Court considers will be sufficient by means of the dividends thereof to keep down or otherwise provide for that charge; and—in any other case of capital money charged on the land—of the amount sufficient to meet the incumbrance and any interest due thereon; but in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses, and interest, and any other contingency except depreciation of investments, not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons thinks fit to require a larger additional amount.

(2) Thereupon the Court may, if it thinks fit, and either after or without any notice to the incumbrancer as the Court thinks fit, declare the land to be freed from the incumbrance; and make any order for conveyance, or vesting order, proper for giving effect to the sale; and give directions for the retention and investment of the money in Court.

(3) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof. 49 V. c. 20, s. 12 (1-3).

Regulations
respecting
payments into
court and
applications.
Imp. Act,
s. 69.

16.—(1) Payment of money into Court shall effectually exonerate therefrom the person making the payment.

(2) Every application to the Court shall, except where it is otherwise expressed, be made in chambers, and on notice.

(3) On an application by a purchaser, notice shall be served in the first instance on the vendor.

(4) On an application by a vendor, notice shall be served in the first instance on the purchaser.

(5) On any application, notice shall be served on such persons, as the Court thinks fit.

(6) The Court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges or expenses of all or any of the parties to any application. 49 V. c. 20, s. 19.

Covenants to
be implied.
Imp. Act, 44-
45 V. c. 41.
s. 7.

17.—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-

matter expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the person jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say:

- (a) In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey, as beneficial owner, namely: On conveyance for value by beneficial owner. Imp. Act, s. 7.

Covenants for right to convey ;

Quiet enjoyment ;

Freedom from incumbrances ; and

Further assurance ;

According to the tenor and effect of the several and respective forms of covenants for the said purposes set forth in Schedule B to *The Act respecting Short Forms of Conveyances*, and therein numbered 2, 3, 4 and 5, respectively, subject to the directions in the said schedule contained. Rev. Stat. c. 105.

- (b) In a conveyance of leasehold property for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys, and is expressed to convey, as beneficial owner (namely): On conveyance of leasehold for value, by beneficial owner.

That, notwithstanding anything by the person who so conveys, made, done, executed or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid, and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed, and performed, have been paid, observed and performed, up to the time of conveyance. 49 V. c. 20, s. 13 (1 a, b.) Validity of lease.

- (c) In a conveyance, the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a lunatic so found by inquisition or judicial declaration, or under an order of the Court, which covenant shall be deemed to extend to every such person's own acts only (namely): On conveyance by trustee, etc. Imp. Act, s. 7.

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to, any Against incumbrances.

deed or thing, whereby, or by means whereof the subject-matter of the conveyance, or any part thereof is, or may be impeached, charged, affected, or incumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying the subject-matter of the conveyance or any part thereof, in the manner in which it is expressed to be conveyed. 49 V. c. 20, s. 13 (1 f).

On conveyance
by beneficial
owner.

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, then the person giving the direction, whether he conveys and is expressed to convey as beneficial owner or not, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction; and a covenant on his part shall be implied accordingly.

Where coven-
ants not
implied.

(3) Where in a conveyance, a person conveying is not expressed to convey as beneficial owner, or as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic so found by inquisition, or under an order of the Court, or by direction of a person as beneficial owner, no covenant on the part of the person conveying shall be by virtue of this section implied in the conveyance.

Enforcing
covenants.

(4) The benefit of a covenant, implied as aforesaid, shall be annexed and incident to and shall go with the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Variation of
covenants.

(5) A covenant implied as aforesaid, may be varied or extended by deed, and as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied. 49 V. c. 20, s. 13 (2-5).

POWERS.

Mode of exe-
cuting powers.

18. A deed hereafter executed in the presence of, and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, shall be executed or attested with some additional or other form of execution or attestation or solemnity: but this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any

particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument; and nothing herein contained shall prevent the donee of a power from executing it conformably to the power, by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend. R. S. O. 1877, c. 98, s. 10.

19. A person to whom a power, whether coupled with an interest or not, is given may by deed release, or contract not to exercise, the power, whether the power was created by an instrument coming into operation before or after the commencement of this Act. 50 V. c. 7, s. 9.

Person to whom a power is given may release or contract not to exercise same.

20. Where, under a power of sale, a *bona fide* sale is made of an estate, with the timber thereon, or any other articles attached thereto, and the tenant for life, or any other party to the transaction, is by mistake allowed to receive for his own benefit a portion of the purchase money or value of the timber or other articles, it shall be lawful for the High Court upon an action brought or upon application made in a summary way, as the case may require or permit, to declare, that upon payment by the purchaser, or the claimant under him, of the full value of the timber and articles at the time of sale, with such interest thereon as the Court directs, and the settlement of the said principal moneys and interest under the direction of the Court, upon such parties as in the opinion of the Court are entitled thereto, the sale ought to be established; and upon payment and settlement being made accordingly, the Court may declare that the sale is valid, and thereupon the legal estate shall vest and go in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R. S. O. 1877, c. 98, s. 11.

Sale under power not to be avoided by reason of mistaken payment to tenant for life. Imp. Act 22-23 V. c. 35, s. 13.

AUCTIONS OF ESTATES.

21. In construing the next succeeding three sections of this Act, Construction of particular words.

1. "Auctioneer" shall mean any person selling by public auction; "Auctioneer."

2. "Puffer" shall mean a person appointed to bid on the part of the seller. R. S. O. 1877, c. 98, s. 12.

22. Unless in the particulars or conditions of sale by auction of any land it is stated that such land will be sold subject to a reserved price, or to a right of the seller to bid, the sale shall be deemed and taken to be without reserve. R. S. O. 1877, c. 98, s. 13.

When sale shall be deemed without reserve.

Seller not to bid at unreserved sales.

23. Upon any sale of land by auction, without reserve, it shall not be lawful for a seller or for a puffer to bid at such sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R. S. O. 1877, c. 98, s. 14.

At reserved sales the seller may bid.

24. Upon any sale of land by auction, subject to a right for the seller to bid, it shall be lawful for the seller or any one puffer to bid at such auction, in such manner as the seller may think proper. R. S. O. 1877, c. 98, s. 15.

Seller not authorized to purchase.

25. Nothing in the next preceding four sections contained shall be taken to authorize any seller to become the purchaser at the sale. R. S. O. 1877, c. 98, s. 16.

Application of ss. 21-25.

26. The next preceding five sections shall not apply to any sale which took place before the 4th day of March, 1868. R. S. O. 1877, c. 98, s. 17.

RENT-CHARGES.

Release of part of land charged not to be an extinguishment of the charge on the rest, etc., Imp. Act 22-23 V. c. 35, s. 10.

27. The release from a rent-charge of part of the hereditaments charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the hereditaments released, without prejudice, nevertheless, to the rights of all persons interested in the hereditaments remaining unreleased, and not concurring in or confirming the release. R. S. O. 1877, c. 95, s. 1.

FUTURE AND CONTINGENT USES.

In case of limitation to uses, they shall take effect as they arise without continued seisin or *scintilla juris* in the persons originally seised. Imp. Act 23-24 V. c. 38, s. 7.

28. Where by any instrument any hereditaments are limited to uses, all uses thereunder, whether expressed or implied by law, and whether immediate or future, or contingent or executory, or to be declared under any power therein contained, shall take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses; and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris*, shall not be deemed necessary for the support of, or to give effect to future or contingent or executory uses; nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended, or to remain or to subsist in him or elsewhere. R. S. O. 1877, c. 95, s. 2.

CONTINGENT REMAINDERS.

Certain contingent remainders not to be defeated by forfeiture, surrender or merger of preceding estate.

29. Every contingent remainder existing on the 2nd day of March, 1877, or created since that day or hereafter, shall be, and every contingent remainder, which existed at any time between the 30th day of May, 1849, and the 2nd day of August, 1851, shall be deemed to have been capable of taking effect, notwithstanding the determination by forfeiture, surrender or merger, of any preceding estate of fee simple. R. S. O. 1877, c. 95, s. 3.

IMPROVEMENTS UNDER MISTAKE OF TITLE.

30. In every case in which a person makes lasting improvements on land under the belief that the land is his own, he or his assigns shall be entitled to a lien upon the same to the extent of the amount by which the value of the land is enhanced by such improvements; or shall be entitled or may be required, to retain the land if the Court is of opinion or requires that such should be done, according as may, under all the circumstances of the case, be most just, making compensation for the land, if retained, as the Court may direct. R. S. O. 1877, c. 95, s. 4.

Persons improving lands to have a lien on lands.

31. In case an action for the recovery of land is brought against a person who, after any line or limit has been established according to *The Act respecting Surveyors and the Survey of Lands*, is found, in consequence of unskilful survey, to have improved on lands not his own, the Judge before whom the action is tried shall assess or direct the jury to assess damages for the defendant for any loss he may sustain in consequence of any improvement made before the commencement of the action, and also assess or direct the jury to assess the value of the land to be recovered and if the verdict or finding be for the plaintiff, no writ of possession shall issue until the plaintiff has tendered or paid the amount of such damages, or has offered to release the land to the defendant, provided that defendant, before the fourth day of the ensuing sittings of the High Court pays or tenders to the plaintiff the value of the land so assessed. R. S. O. 1877, c. 51, s. 29.

As to cases where, from unskilful survey, a party has improved lands afterwards found to belong to his neighbor. Rev. Stat. c. 152.

32. In all cases in which the Judge or the jury before whom such action is tried, assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own in consequence of unskilful survey, and where it satisfactorily appears that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishment of the lines according to law, the Judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence: provided the defendant at the time of appearing, gave notice in writing to the plaintiff or his solicitor of the amount claimed for such improvements, and that on payment the defendant or person in possession would surrender the possession to the plaintiff, and that the defendant did not intend at the trial to contest the title of the plaintiff; and if on the trial it be found that notice was not given as aforesaid, or if there be assessed for the defendant a less amount than that claimed, in the notice, or if be found that the defendant had refused to surrender possession of the land after tender made of the amount claimed, then and in such case the Judge shall not certify, and the

Plaintiff not to have costs from the time defendant offers to give up the lands on receiving the value of his improvements

Unless the improvements are assessed at less than the sum demanded.

When no proof of title is made by the defendant shall pay costs to the plaintiff; and upon the trial of any action after such notice no evidence shall be required in proof of the title of the plaintiff. R. S. O. 1877, c. 51, c. 30.

PURCHASES OF REVERSIONS.

"Purchase"—what it shall mean. **33.** In the succeeding two sections the word "Purchase" shall mean any kind of contract, conveyance or assignment, under or by which any kind of property may be acquired. R. S. O. 1877, c. 95, s. 7.

Onus probandi of undervalue to lie on plaintiff in setting aside purchase of a reversion before 4th March, 1868. **34.** In case any purchase made before the 4th day of March, 1868, of any reversionary interest in real or personal estate is sought to be opened or set aside on the ground of undervalue, the onus of proving undervalue shall lie upon the plaintiff. R. S. O. 1877, c. 95, s. 5.

Purchases after March 1868, affording no ground of undervalue. **35.** No purchase made after the said date *bona fide*, and without fraud, of any reversionary interest in real or personal estate shall be opened or set aside on the ground of undervalue. R. S. O. 1877, c. 95, s. 6.

PURCHASER FOR VALUE WITHOUT NOTICE.

of payment of money unnecessary. **36.** It shall in no case be necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money, or any part thereof. R. S. O. 1877, c. 95, s. 9.

FRAUDS ON SALES AND MORTGAGES.

Liability of vendor or mortgagor for concealment of deeds, etc., or falsifying pedigree. Inq. Acts 22 23 V., c. 35, s. 24, and 23 24 V., c. 35, s. 5. **37.** If any seller or mortgagor of land, or of any chattels real or personal, or *choses in action* conveyed or assigned to a purchaser or mortgagee, or the solicitor or agent of any such seller or mortgagor, conceals any settlement, deed, will or other instrument material to the title, or any incumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent in any or such cases to defraud, he shall, in addition to any criminal liability he may thereby incur, be liable to an action for damages at the suit of the purchaser or mortgagee, or those claiming under the purchaser or mortgagee, for any loss sustained by them or either or any of them, in consequence of the settlement, deed, will or other instrument or incumbrance so concealed, or of any claim made by any person under such pedigree, but whose right was concealed by the falsification of such pedigree; and in estimating such damages where the estate is recovered from such purchaser or mortgagee, or from those claiming under the purchaser or mortgagee, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. R. S. O. 1877, c. 98, s. 18.

SCHEDULE.

FORM OF CONVEYANCE BY BENEFICIAL OWNER UNDER SECTION 17.

This Indenture made the _____ day of _____, one thousand eight hundred and _____

Between (here insert names of parties and recitals, if any,) Witnesseth, that in consideration of _____ dollars, of lawful money of Canada, now paid by the said grantee to the said grantor (the receipt whereof is by him acknowledged,) he, the said grantor, as beneficial owner, doth convey unto the said grantee in fee simple, (or otherwise as the case may be) all, etc., (parcels).

In witness whereof, the said parties hereto have hereunto set their hands and seals.

CHAPTER 101.

An Act respecting Petty Trespasses.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Any person who unlawfully enters into, comes upon, or passes through or in any way trespasses upon any land or premises whatsoever, being wholly enclosed, and being the property of another person, shall be liable to a penalty of not less than \$1 nor more than \$10 for any such offence, irrespective of any damage having or not having been occasioned thereby; and such penalty may be recovered, with costs, in every case of conviction before any one Justice of the Peace, who shall decide the matter in a summary way, and award costs in case of conviction, which may be had either on view or on confession of the party complained against, or on the oath of one credible witness. But nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any case within the meaning of section 59 of *The Act respecting Malicious Injuries to Property*. 25 V. R. S. C. c. 168. c. 22, s. 2. Penalty for unlawful trespass.
Recovery of penalty.
Proviso.

2. Any person found committing such trespass as aforesaid, may be apprehended without a warrant by any peace officer, or by the owner of the property on which it is committed, or the servant, or any person authorized by him, and be forthwith taken to the nearest Justice of the Peace, to be dealt with according to law. C. S. U. C. c. 105, s. 2. Trespasser may be arrested without warrant.

3. Except as herein otherwise provided, all proceedings under this Act shall be subject to and in accordance with the

R. S. C. c. 178. provisions of the *Summary Convictions Act*, which shall apply to cases arising under this Act. C. S. U. C. c. 105, s. 3.

Act not to affect any case involving title o land.

1. Nothing in this Act contained shall authorize any Justice of the Peace to hear and determine any case of trespass in which the title to land, or any interest therein or accruing thereupon, shall be called in question or affected in any manner howsoever; but every such case of trespass shall be dealt with according to law in the same manner, in all respects, as if this Act had not been passed. C. S. U. C. c. 105, s. 4.

CHAPTER 102.

An Act respecting Mortgages of Real Estate.

INTERPRETATION, s. 1.	EFFECT OF ADVANCE ON JOINT ACCOUNT, s. 14.
OBLIGATION TO TRANSFER MORTGAGE, s. 2.	RECEIPTS OF MORTGAGEE OR SURVIVOR OF TWO OR MORE MORTGAGEES TO BE EFFECTUAL DISCHARGES, s. 15.
INSPECTION OF TITLE DEEDS, s. 3.	RIGHT OF MORTGAGEE TO DISTRAIN LIMITED, ss. 16-17.
APPLICATION OF INSURANCE MONEY, s. 4.	POWER OF SALE AND INCIDENTAL POWERS TO BE IMPLIED, ss. 18-29.
IMPLIED COVENANTS, ss. 5-7.	TAXATION OF COSTS, ss. 28, 31.
RELEASE OF EQUITY OF REDEMPTION, ss. 8-10.	RESTRICTION AS TO PROCEEDINGS ON MORTGAGES, s. 30.
PROOF OF MORTGAGE ACCOUNT IN FORECLOSURE PROCEEDINGS, s. 11.	PAYMENT IN TERMS OF NOTICE TO BE ACCEPTED, s. 31.
EXECUTORS, ETC., OF MORTGAGEES MAY ASSIGN, RELEASE, ETC., LEGAL ESTATE IN CERTAIN CASES, s. 12.	DEFENCE OF PURCHASE FOR VALUE WITHOUT NOTICE, s. 32.
DISCHARGE OF MORTGAGE MAY BE MADE AT ANY TIME, s. 13.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Interpretation.

1. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears—

“Property.”

1. “Property” includes real and personal property, and any debt, and any thing in action, and any other right or interest.

2. "Land" includes tenements and hereditaments, corporeal "Land." or incorporeal; and houses and other buildings; also an undivided share in land.

3. "Conveyance" includes assignment, appointment, lease, "Conveyance." settlement, and other assurance and covenant to surrender, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property; and "convey" has a meaning corresponding with that of "Convey." conveyance.

4. "Mortgage" includes any charge on any property for securing money or money's worth; and "mortgage money" means "Mortgage money or money's worth, secured by a mortgage; and "mortgagor" includes any person from time to time deriving title "Mortgagor." under the original mortgagor, or entitled to redeem a mortgage, according to his estate, interest, or right, in the mortgaged property; and "mortgagee" includes any person from time to time "Mortgagee." deriving title under the original mortgagee.

5. "Incumbrance" includes a mortgage in fee, or for a less estate, and a trust for securing money, and a lien, and a charge "Incumbrance." of a portion, annuity or other capital or annual sum; and "incumbrancer" has a meaning corresponding with that of "Incumbrancer." incumbrance, and includes every person entitled to the benefit of an incumbrance, or to require payment or discharge thereof.

49 V. c. 20, s. 3 (1-5).

PART I.

2.—(1) Where a mortgagor is entitled to redeem, he shall, by virtue of this Act, have power to require the mortgagee, instead of giving a certificate of payment or re-conveying, and on the terms on which he would be bound to re-convey, to assign the mortgage debt and convey the mortgaged property to any third person, as the mortgagor directs; and the mortgagee shall, by virtue of this Act be bound to assign and convey accordingly.

Obligation on mortgagee to transfer instead of re-conveying.
Imp. Act 44 and 45, V. c. 11, s. 15.

(2) This section does not apply in the case of a mortgagee being or having been in possession.

(3) This section shall have effect notwithstanding any stipulation to the contrary. 49 V. c. 20, s. 7.

3.—(1) A mortgagor, as long as his right to redeem subsists, shall, by virtue of this Act, be entitled from time to time, at reasonable times, on his request, and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee.

Power for mortgagor to inspect title deeds.
Imp. Act, sec. 16.

(2) This section applies only to mortgages made after the 1st day of July, 1886, and shall have effect notwithstanding any stipulation to the contrary. 49 V. c. 20, s. 8.

Insurance
money.
Imp. Act,
23.

4.—(1) All money payable on an insurance to a mortgagor shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance be applied in or towards the discharge of the money due under his mortgage. 49 V. c. 20, s. 9.

Covenants to
be implied.
Imp. Act, s. 7.

5.—(1) There shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases by virtue of this Act be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-matter expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say:—

On mortgage,
by beneficial
owner.

(a) In a conveyance by way of mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner (namely):

For payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage;

Good title;

Right to convey;

That, on default, the mortgagee shall have quiet possession of the land;

Free from all incumbrances;

That the mortgagor will execute such further assurances of the said lands as may be requisite; and

That the mortgagor has done no act to incumber the land mortgaged;

According to the tenor and effect of the several and respective forms of covenants for the said purposes set forth in Schedule B to *The Act respecting Short Forms of Mortgages*.

Rev. Stat.
c. 107.

On mortgage
of leaseholds,
by beneficial
owner.

(b) In a conveyance by way of mortgage of leasehold property, the following further covenant by the person who conveys, and is expressed to convey, as beneficial owner (namely):

That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid, and effectual lease or grant of the land conveyed, and is in full force, unforfeited, and unsurrendered, and in nowise become void, or voidable, and that all the rents reserved by, and all the covenants, conditions and agreements contained in, the lease, or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, have been paid, observed and performed, up to the time of conveyance;

Validity of lease.

And also, that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe, and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements, contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him, to be paid, observed and performed, and will keep the person to whom the conveyance is made, and those deriving title under him, indemnified against all accidents, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them, by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them: 49 V. c. 20, s. 13, (1 *c. d.*)

Payment of rent and performance of covenants.

6. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them; and where there are more mortgagees than one, the implied covenant with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums; in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. 49 V. c. 20, s. 14 (1).

Implied covenants in mortgage, where joint and several. Temp. Act, 28.

7. The preceding two sections apply only to mortgages made after the 1st day of July, 1886. 49 V. c. 20, ss. 13 (6), 14 (2).

Application of ss. 5, 6.

8. Any mortgagee of freehold or leasehold property, or any assignee of such mortgagee, may take and receive from the mortgagor or his assignee a release of the equity of redemption in such property, or may purchase the same under any judgment or order of a court of law, without merger of debt.

Mortgagee of freehold property, etc., may receive release, etc., without merger of debt.

ment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property. R. S. O. 1877, c. 99, s. 1.

Where mortgagee acquires equity of redemption, subsequent mortgagee not entitled to foreclose or sell property without redeeming, etc.

9. In case such prior mortgagee or his assignee acquires the equity of redemption of the mortgagor in the manner aforesaid, no subsequent mortgagee or his assignees shall be entitled to foreclose or sell such property without redeeming or selling, subject to the rights of such prior mortgagee or his assignee, in the same manner as if such prior mortgagee or his assignee had not acquired such equity of redemption. R. S. O. 1877, c. 99, s. 2.

Priority under Registry Laws not to be affected.

10. The preceding two sections shall not affect any priority or claim which any mortgagee may have under the Registry Laws. R. S. O. 1877, c. 99, s. 3.

In proceedings for foreclosure, etc., state of mortgage account may be proved *prima facie*, by statement on oath of assignee of mortgagee.

11. On any proceeding for foreclosure by or for redemption against an assignee of a mortgagee, the statement of the mortgage account, under the oath of such assignee, shall be sufficient *prima facie* evidence of the state of such account, and no affidavit or oath shall be required from the mortgagee or any intermediate assignee denying any payment to such mortgagee or intermediate assignee, unless the mortgagor or his assignee, or the party proceeding to redeem, denies by oath or affidavit the correctness of such statement of account. R. S. O. 1877, c. 99, s. 4.

Executors of mortgagee may assign, etc.

12. Where a person entitled to any freehold land by way of mortgage has departed this life, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the legal estate in the land; and such executor or administrator shall have the same power as to any portion of the lands on payment of some part of the mortgage debt, or on any arrangement for exonerating the estate, or any part of the mortgage lands, without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the person having the legal estate. R. S. O. 1877, c. 99, s. 5. *See also Rev. Stat. Cap. 110, s. 16.*

Certificate of payment, etc. to be valid, at whatever time given.

13. Every certificate of payment or discharge of a mortgage, or of the conditions therein, or of the lands or of any part of the same, or of any part of the money, by the mortgagee, or his assignee, his heirs, executors, administrators, or assigns, or any one of them, at whatsoever time given, and whether before or

after the time limited by the mortgage for payment or performance, shall, if in conformity with *The Registry Act*, be valid, to all intents and purposes whatsoever. R. S. O. 1877, c. 99, s. 6. c. 114. *See also Rev. Stat.* Cap. 110, s. 17 ; Cap. 114, ss. 69, 72.

14.—(1) Where in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, the sum, or any part of the sum, advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a transfer is made to more persons than one, jointly, and not in shares—the mortgage money, or other money or money's worth, for the time being due to those persons on the mortgage or obligation, shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor ; and the receipt in writing of the survivors or last survivor of them, or of the personal representatives of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

Effect of advance on joint account, etc.

Imp. Act 44,
45 V. c. 41,
s. 61.

(2) This section applies only if and as far as a contrary intention is not expressed in the mortgage, or obligation, or transfer, and shall have effect subject to the terms of the mortgage, or obligation, or transfer, and to the provisions therein contained.

(3) This section applies only to a mortgage, or obligation, or transfer made after the 1st day of July, 1886. 49 V. c. 20, s. 15.

15. The *bona fide* payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security. R. S. O. 1877, c. 99, s. 7. *See also Rev. Stat.* Cap. 110, s. 8.

Receipts of mortgagees, etc., to be effectual discharges.

16. The right of a mortgagee to distrain for interest in arrear upon a mortgage, shall be limited to the goods and chattels of the mortgagor, and as to such goods and chattels, limited as to goods, to such only as are not exempt from seizure under execution. This section shall not apply to mortgages existing on the 25th day of March, 1886. 49 V. c. 29, s. 3.

Right of mortgagee to distrain limited as to goods.

Mortgagee's
right of dis-
tress limited
to one year's
interest or
rent.

17.—(1) As against creditors of any mortgagor or person in possession of mortgaged premises under a mortgagor, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage to be executed after the 23rd day of April, 1887, shall be restricted to one year's arrears of such interest or rent, but this restriction shall not apply unless some one of such creditors shall be an execution creditor, or unless there shall be an assignee for the general benefit of such creditors appointed before lawful sale of the goods distrained, nor unless the officer executing such writ of execution, or such assignee shall, by notice in writing to be given to the person distraining, or his attorney, bailiff, or agent, before such lawful sale, claim the benefit of the said restriction, and in case such notice is so given, the distrainer shall relinquish to the officer or assignee the goods distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs shall not be paid or tendered he shall sell only so much of the goods distrained as shall be necessary to satisfy one year's arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of goods, and pay any residue of moneys, proceeds of goods so distrained, to the said officer or assignee.

Reimburse-
ment of officer
or assignee.

(2) Any officer executing a writ of execution, or an assignee who shall pay any money to relieve goods from distress under the next preceding sub-section, shall be entitled to reimburse himself therefor out of the proceeds of the sale of such goods.

Notice of sale.

(3) Goods distrained for arrears of interest or rent, as aforesaid, shall not be sold except after such public notice as is now required to be given by a landlord who sells goods distrained for rent. 50 V. c. 7, ss. 36-38.

PART II.

Powers inci-
dent to mort-
gages.

18. Where any principal money is secured or charged by deed executed after the 11th day of March, 1879, on any hereditaments of any tenure, or on any interest therein, the person to whom the money shall, for the time being, be payable, his executors, administrators and assigns, shall, at any time after the expiration of six months from the time when the principal money shall have become payable, according to the terms of the deed, or after any interest on the principal money shall have been in arrear for six months, or after any omission to pay any premium or any insurance which, by the terms of the deed, ought to be paid by the person entitled to the property subject to the charge, have the following powers, to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:

1st. A power to sell, or concur with any other person in selling, the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner.

2nd. A power to insure, and keep insured, from loss or damage by fire, the whole or any part of the property (whether affixed to the freehold or not) which is in its nature insurable, and to add the premiums paid for such insurance to the principal money secured at the same rate of interest. 42 V. c. 20, s. 1.

19. Receipts for purchase money given by the person or persons exercising the power of sale by the preceding section conferred, shall be sufficient discharges to the purchaser, who shall not be bound to see to the application of such purchase money. 42 V. c. 20, s. 2. Receipts for purchase money sufficient discharges.

20.—(1) No sale as aforesaid shall be made until after three months' notice in writing has been given to any subsequent incumbrancer, and to the person entitled to the property subject to the charge and to such incumbrance, the notice to be given either personally or at his usual or last place of residence in this Province, which notice may be given at any time after any default in making a payment provided for by the deed. Notice before sale.

(2) In case of the death of the person entitled subject to the charge, and of his interest therein passing to infant heirs or devisees, the notice shall be given as aforesaid to his executors or administrators, as well as to his heirs or devisees, as the case may be.

(3) The notice for an infant heir is to be served upon his guardian, and is also to be served upon the infant himself, if over the age of twelve years. 42 V. c. 20, s. 3.

21. When a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that such power has been improperly or irregularly exercised, or that no such notice as aforesaid has been given: but any person damaged by any such unauthorized, improper, or irregular exercise of such power, shall have his remedy against the person selling. 42 V. c. 20, s. 4. Improper sale not to defeat title of purchaser.

22. The notice of sale may be in the following form or to the following effect: Form of notice.

I hereby require you on or before the day of 18 , (a day not less than three calendar months from the service of the notice, and not less than six months after the default) to pay off the principal money and interest secured by a certain indenture dated the day of 18 and expressed to be made between (here state parties and describe mortgage property) which said mortgage was registered on the day of (and if the mortgage has been assigned add: and has since become the property of the undersigned). And I hereby give you notice that the amount due on the said mortgage for principal, interest, and costs respectively, is as follows: (set the same forth).

And unless the said principal money and interest and costs are paid on or before the said day of I shall sell the property comprised in the said indenture under the authority of the Act entitled *An Act respecting Mortgages of Real Estate*. Dated the day of 18 .
42 V. c. 20, s. 5.

Registration
of notice.

23. The notice of sale of lands may be registered in the registry office of the registry division in which the lands are situate, in the same manner as any other instrument affecting the land, and such registration shall have the same effect, and the duties of the registrar in respect of the same shall be as in the case of any other registered instrument, and the fee to be paid such registrar for registering the same shall be fifty cents.
42 V. c. 20, s. 6.

Affidavit for
registration.

24.—(1) The affidavit for the purpose of registering the notice shall be made by the person who served the same, and shall prove the time, place, and manner of such service, and that the copy delivered to the registrar is a true copy of the notice served.

Certified copy
of registered
notice to be
evidence.

(2) A copy of such registered notice and affidavit, certified under the hand and seal of office of the registrar, shall in all cases be received as *prima facie* evidence of the facts therein stated. 42 V. c. 20, s. 7.

Application of
purchase
money.

25. The money arising by a sale effected as aforesaid shall be applied by the person receiving the same as follows: first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and thirdly, in discharge of all the principal moneys then due in respect of such charge; and the residue of such money shall be paid to the subsequent encumbrancers according to their priorities, and the balance to the person entitled to the property subject to the charge, his heirs, executors, administrators, or assigns, as the case may be. 42 V. c. 20, s. 8.

Conveyance to
the purchaser.

26. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein, which the person who created the charge had power to dispose of. 42 V. c. 20, s. 9.

27. At any time after the power of sale hereby conferred shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover, from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed, surrendered, or assigned to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made. 42 V. c. 20, s. 10.

Owner of charge may call for title deeds and conveyance of legal estate.

28. The mortgagee's costs may, without an order, be taxed by one of the taxing officers or by the local master, at the instance of any party interested. 42 V. c. 20, s. 11.

Taxation of costs.

29. So much of Part II of this Act as provides for a power to sell shall not apply in the case of a deed which contains a power of sale; and so much of this Act as provides a power to insure shall not apply in the case of a deed which contains a power to insure, nor shall any of the provisions of Part II. of this Act apply to any deed which contains a declaration that Part II. of this Act is not to apply thereto. 42 V. c. 20, s. 12.

Provisions as to sale, etc., not to apply in certain cases.

PART III.

30. (1) In order to prevent the making of unnecessary and vexatious costs in respect to mortgages, it is hereby enacted that, where pursuant to any condition or proviso contained in a mortgage there has been made or given a demand or notice either requiring payment of the moneys or any part thereof secured by such mortgage, or declaring an intention to proceed under and exercise the power of sale contained in such mortgage, no further proceedings and no action either to enforce such mortgage, or with respect to any clause, covenant or provision therein contained, or the lands or any part thereof thereby mortgaged shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the moneys is to be made, or the power of sale is to be exercised or proceeded under, be commenced or taken unless and until an order permitting the same shall first be had and obtained either from the Judge of a County Court or from a Judge of the High Court.

When demand of payment made or notice of intention to exercise power of sale given, no further proceedings to be taken until expiration of time named in notice or demand, without order of a judge.

(2) Such order may be obtained *ex parte*, but only upon such affidavits and proof as will satisfy the Judge that it is reasonable and equitable that the proposed action or proceeding should be allowed to be taken and proceeded with.

Proof on which order may be granted.

Title of affidavit or order.

(3) Such affidavit or order may be entitled as follows:—

“In the matter of a mortgage purporting to be made between (*describing the parties thereto as in the mortgage*) and bearing date on the day of .”

This section not to apply to proceedings to stay waste etc.

(4) This section shall not apply to proceedings to stay waste or other injury to the mortgaged premises, and the costs of any application thereunder shall be in the discretion of the Judge.
47 V. c. 16, s. 2.

Payment to be accepted if made in terms of notice.

31. When such demand or notice requires payment of all moneys secured to be paid by or under a mortgage, the party making such demand or giving such notice shall accept and receive payment of the same if made as required by the terms of such notice or demand; and if there be any dispute as to the costs payable by the person by or on whose behalf such payment is either made or tendered then such costs shall, on three clear days' notice to such person by the person claiming the same, be taxed and ascertained by the clerk of a County Court, or by a local master, and thereupon and in such case, if within ten days after said costs have been so taxed and ascertained, payment of said moneys and costs are duly made or tendered to the person entitled thereto, or to his solicitor or agent in that behalf, the same shall be deemed and taken to have been paid or tendered, as the case may be, within the meaning of such notice or demand, and in compliance therewith.
47 V. c. 16, s. 3.

Purchaser of mortgage may set up defence or purchase for value without notice.

32. The purchaser in good faith of a mortgage may to the extent of the mortgage (and except as against the mortgagor, his heirs, executors, or administrators), set up the defence of purchase for value without notice in the same manner as a purchaser of the property mortgaged might do. R. S. O. 1877, c. 95, s. 8.

CHAPTER 103.

An Act respecting the Assurance of Estates Tail.

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HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

1.—(1) Where the words and expressions following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears : Interpre-
tation.

“Lands” shall extend to advowsons, rectories, messuages, “Lands.”
lands, tenements, rents and hereditaments of any tenure and
whether corporeal or incorporeal, and any undivided share
thereof ;

“Estate” shall extend to an estate in equity as well as at law and shall also extend to any interest, charge, lien or incumbrance in, upon or affecting lands, either at law or in equity, and shall also extend to any interest, charge, lien or incumbrance in, upon or affecting money subject to be invested in the purchase of lands ;

“Base fee.” “Base fee” shall mean exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred ;

“Estate tail.” “Estate tail,” in addition to its usual meaning, shall mean a base fee into which an estate tail has been converted ;

“Actual tenant in tail.” “Actual tenant in tail” shall mean exclusively the tenant of an estate tail which has not been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned to a right ;

“Tenant in tail.” “Tenant in tail” shall mean, not only an actual tenant in tail, but also a person who, where an estate tail has been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred ;

“Tenant in tail entitled to a base fee.” “Tenant in tail entitled to a base fee” shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail ;

“Money subject to be invested in the purchase of lands.” “Money subject to be invested in the purchase of lands” shall include money, whether raised or to be raised, and whether the amount thereof be or be not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of lands, and the lands to be purchased with such money or produce shall extend to lands of any tenure out of Ontario, where such lands or any of them are within the scope or meaning of the trust or power directing or authorizing the purchase.

Settlement. (2) Every assurance already made or hereafter to be made, whether by deed, will, Private Act of Parliament or Act of the Legislature, or otherwise, by which lands heretofore have been or may hereafter be entailed, or agreed or directed to be entailed, shall be deemed a settlement.

Appointment in exercise of a power under a settlement. (3) Every appointment made in exercise of any power contained in any settlement, or of any other power arising out of the power contained in any settlement, shall be considered as a part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement.

Settlement by will to date from testator's death. (4) Where such settlement is made by will, the time of the death of the testator shall be considered the time when such settlement was made.

Proviso. (5) But those words and expressions occurring in this section, to which more than one meaning is to be attached, shall not have the different meanings given to them by this section in those cases in which there is anything in the subject or context repugnant to such construction. R. S. O. 1877, c. 100, s. 1

2. All warranties of lands made or entered into by a tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail. R. S. O. 1877, c. 100, s. 2.

Estates tail and estates expectant thereon, no longer barrable by warranty.

3. Every actual tenant in tail, whether in possession, remainder, contingency or otherwise, may dispose of, for an estate in fee simple absolute, or for any less estate, the lands entailed, as against all persons claiming the lands entailed by force of any estate tail vested in or which might be claimed by or which, but for some previous act, would have been vested in, or might have been claimed by the person making the disposition, at the time of his making the same, and also as against all persons, including Her Majesty, Her Heirs and Successors, whose estates are to take effect after the determination, or in defeasance of such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition is made, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made. R. S. O. 1877, c. 100, s. 3.

Power to dispose of lands in fee simple or for a less estate, etc.

4. Where, under a settlement made before the 18th day of May, 1846, a woman is tenant in tail of lands within the provisions of the Act passed in the 11th year of the reign of His Majesty King Henry the Seventh, entitled *Certain Alienations made by the wife, of the lands of her deceased husband, shall be void*, the power of disposition hereinbefore contained as to such lands shall not be exercised by her, except with such assent as, if this Act had not been passed, would, under the provisions of the said Act of King Henry the Seventh, have rendered valid a fine or common recovery levied or suffered by her of such lands. R. S. O. 1877, c. 100, s. 4.

Power of disposition not to be exercised by women tenants in tail, or provisions *vin.* etc.

11 Hen. vii. c. 20.

5. Except as to lands comprised in any settlement made before the 18th day of May, 1846, the said Act of the 11th year of the reign of His Majesty King Henry the Seventh shall be of no force in Ontario. R. S. O. 1877, c. 100, s. 5.

11 H. vii. c. 20, repealed except as to certain lands.

6. The power of disposition hereinbefore contained shall not extend to tenants of estates tail, who, by the Act passed in the 34th and 35th years of the reign of His Majesty King Henry the Eighth, entitled *An Act to embar feigned recovery of lands wherein the King is in reversion*, or by any other Act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct. R. S. O. 1877, c. 100, s. 6.

Power of disposition not to extend to certain tenants in tail.

34-5 Hen. viii. c. 20.

7. In every case in which an estate tail in any lands has been barred and converted into a base fee, the person who, if such estate tail had not been barred, would have been actual

Power to enlarge base fees saving the rights of certain persons.

tenant in tail of the same lands, may dispose of such lands as against all persons, including Her Majesty, Her Heirs and Successors, whose estates are to take effect after the determination, or in defeasance of the base fee into which the estate tail has been converted, so as to enlarge the base fee into a fee simple absolute, saving always the rights of all persons, in respect of estates prior to the estate tail which has been converted into a base fee, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made. R. S. O. 1877, c. 100, s. 7.

Issue inheritable not to bar expectancies.

8. Nothing in this Act contained shall enable any person to dispose of any lands entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein. R. S. O. 1877, c. 100, s. 8.

Extent of estate created by a tenant in tail by way of mortgage or for any other limited purpose.

9. If a tenant in tail of lands makes a disposition of the same under this Act, by way of mortgage, or for any other limited purpose, then such disposition shall, to the extent of the estate thereby created, be an absolute bar in Equity, as well as at Law, to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected; but if the estate created by such disposition is only an estate *pur autre vie*, or for years absolute or determinable, or if, by a disposition under this Act by a tenant in tail of lands, an interest, charge, lien or incumbrance is created without a term of years absolute or determinable, or any greater estate for securing or raising the same, then such disposition shall, in Equity, be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interests, lien, charge or incumbrance, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected. R. S. O. 1877, c. 100, s. 9.

The owner of the first existing estate under settlement prior to an estate tail under the same settlement to be the protector of the settlement.

10. If at the time there is a tenant in tail of lands under a settlement, and there is subsisting in the same lands, or any of them, under the same settlement, any estate for years, determinable on the dropping of a life or lives, or any greater estate (not being an estate for years) prior to the estate tail, then the person who is the owner of the prior estate, or the first of such prior estates, if more than one, then subsisting under the same settlement, or who would have been so if no absolute disposition thereof had been made (the first of such prior estates, if more than one, being for all the purposes of this Act, deemed the prior estate), shall be the protector of the settlement, so far as regards the lands in which such prior estate is subsisting, and shall, for all the purposes of this Act, be deemed the owner of such prior estate, although the same may have been charged or incumbered, either by the owner thereof or by the settlor, or otherwise howsoever, and although the whole of the rents

and profits are exhausted, or are required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and an estate by the curtesy in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this clause; and an estate by way of resulting use or trust to or for the settlor, shall be deemed an estate under the same settlement, within the meaning of this clause. R. S. O. 1877, c. 100, s. 10.

11. Where two or more persons are owners, under a settlement within the meaning of this Act, of a prior estate, the sole owner of which estate, if there had been only one, would in respect thereof have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall in exclusion of the other or others of them, be the sole protector of such settlement to the extent of such undivided share. R. S. O. 1877, c. 100, s. 11.

Each of two or more owners of a prior estate to be the sole protector as to his share.

12. Where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is not thereby settled or agreed, or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement, and shall be deemed one owner; but if such prior estate has by such settlement been settled or agreed, or directed to be settled to her separate use, then she alone shall, in respect of such estate, be the protector of such settlement. R. S. O. 1877, c. 100, s. 12.

When a married woman alone shall be the protector, and where she and her husband together shall be protector.

13. Except in the case of a lease hereinafter provided for where an estate is limited by a settlement, by way of confirmation, or where the settlement merely has the effect of restoring an estate, in either of those cases, such estate shall, for the purposes of this Act, so far as regards the protector of the settlement be deemed an estate subsisting under such settlement. R. S. O. 1877, c. 100, s. 13.

As to estates confirmed or restored by settlement.

14. Where a lease at a rent is created or confirmed by a settlement, the person in whose favour such lease is created or confirmed, shall not, in respect thereof, be the protector of such settlement. R. S. O. 1877, c. 100, s. 14.

As to leases at rent created by settlement.

15. No woman in respect of her dower, and (except in the case, hereinafter provided for, of a bare trustee under a settlement made on or before the 1st day of July, 1846, no bare trustee, heir, executor, administrator or assign, in respect of any estate

No bare trustee, tenant in dower, etc., to be protector except under sect. 19.

taken by him as such bare trustee, heir, executor, administrator or assign, shall be the protector of a settlement. R. S. O. 1877, c. 100, s. 15.

Who shall be the protector where the owner of the prior estate is, by the two last sections, excluded.

16. Where under a settlement there is more than one estate prior to an estate tail, and the person who is the owner, within the meaning of this Act, of such prior estate, in respect of which, but for the last preceding two sections, or one of them, he would have been the protector of the settlement, is by virtue of such sections, or either of them, excluded from being the protector—then the person (if any) who, if such estate did not exist, would be the protector of the settlement, shall be such protector. R. S. O. 1877, c. 100, s. 16.

Where in the case of the disposition of an estate before the 1st July, 1846, the person to make the tenant to the writ of entry in a recovery shall be the protector.

17. Where on or before the 1st day of July, 1846, an estate under a settlement had been disposed of, either absolutely or otherwise, and either for valuable consideration or not, the person who in respect of such estate would, before the 1st day of January, 1834, have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of the lands entailed by such settlement, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement. R. S. O. 1877, c. 100, s. 17.

Where in the case of the disposition of a reversion on or before the 1st July, 1846, the person to make the tenant to the writ of entry in a recovery shall be the protector.

18. Where any person having, on or before the 1st day of July, 1846, either for valuable consideration or not, disposed of, either absolutely or otherwise, a remainder or reversion in fee in any lands, or created any estate out of such remainder or reversion, would, under this Act, if this clause had not been inserted, have been the protector of the settlement by which the lands were entailed in which such remainder or reversion is subsisting, and thereby be enabled to concur in the barring of such remainder or reversion, which he could not have done if he had not become such protector; then the person who, before the 1st day of January, 1834, would have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of such lands, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement. R. S. O. 1877, c. 100, s. 18.

Where a bare trustee, &c.

19. Where, under a settlement of lands made before the 1st day of January, 1834, the person who, if this Act had not been passed, would have been the proper person to make the tenant to the writ of entry or other writ for suffering a common recovery of such lands, for the purpose of barring any estate tail or other estate under such settlement, is a bare trustee, such trustee shall, during the continuance of the estate conferring on him the right to make the tenant to such writ of entry or other writ, be the protector of such settlement. R. S. O. 1877, c. 100, s. 19.

20. Any settlor entailing lands may appoint, by the settlement by which the lands are entailed, any number of persons in *esse*, not exceeding three, and not being aliens, to be protector of the settlement, in lieu of the person who would have been the protector if this clause had not been inserted, and either for the whole or any part of the period for which such person might have continued protector; and, by means of a power to be inserted in such settlement, to perpetuate, during the whole or any part of such period, the protectorship of the settlement in any one person or number of persons in *esse*, and not being an alien or aliens, whom the donee of the power thinks proper, by deed, to appoint protector of the settlement, in the place of any one person, or number of persons, who may die, or by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person; but the number of the persons to compose the protector by virtue or means of any such appointment, shall never exceed three. R. S. O. 1877, c. 100, s. 20.

Power to any settlor to appoint protector.

21. Every deed by which a protector is appointed under a power in a settlement, and every deed by which a protector relinquishes his office, shall be void unless registered in the registry office of the registry division wherein the lands referred to lie, within six months after the execution thereof; and the person who, but for the last preceding section, would have been sole protector of the settlement, may be one of the persons to be appointed protector under that section, if the settlor thinks fit, and shall, unless otherwise directed by the settlor act as sole protector, if the other persons constituting the protector have ceased to be so by death or relinquishment of the office by deed, and no other person has been appointed in their place. R. S. O. 1877, c. 100, s. 21.

Deeds appointing protectors to be registered.

22. If any person, protector of a settlement, is a lunatic, idiot, or of unsound mind, and whether he has been found such by inquisition or not, then the High Court shall be the protector of such settlement, in lieu of the person who is such lunatic or idiot, or of unsound mind, as aforesaid; or, if any person, protector of a settlement, is convicted of treason or felony, or, if a person not being the owner of a prior estate under a settlement, is protector of such settlement, and is an infant; or, if it is uncertain whether such last mentioned person is living or dead—then the High Court shall be the protector of such settlement, in lieu of the person convicted as aforesaid, or of the person who is an infant, or whose existence cannot be ascertained as aforesaid; or, if any settlor entailing lands declares, in the settlement by which the lands are entailed, that the person who, as owner of a prior estate under

High Court to be the protector of lunatic, etc.

such settlement, would be entitled to be protector of the settlement, shall not be the protector, and does not appoint any person to be protector in his stead, then the said High Court shall, as to the lands in which the prior estate is subsisting, be the protector of the settlement during the continuance of such estate; or, if in any other case, there is subsisting under a settlement an estate prior to an estate tail under the same settlement, and such prior estate is sufficient to qualify the owner thereof to be protector of the settlement, and there happens at any time to be no protector of the settlement as to the lands in which the prior estate is subsisting, the said High Court shall, while there is no such protector, and the prior estate is subsisting, be the protector of the settlement as to such lands. R. S. O. 1877, c. 100, s. 22.

Where there is a protector, his consent requisite to enable an actual tenant in tail to create a larger estate than a base fee.

23. If at the time when any person, actual tenant in tail of lands under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, is desirous of making under this Act a disposition of the lands entailed, there is a protector of such settlement, then the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the lands entailed to the full extent to which he is hereinbefore authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this Act of the lands entailed, which shall be good against all persons who, by force of any estate tail vested in or which might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, may claim the lands entailed. R. S. O. 1877, c. 100, s. 23.

Where a base fee and a protector, his consent requisite to the exercising of a power of disposition.

24. Where an estate tail has been converted into a base fee in such case, so long as there is a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred, to exercise, as to the lands in respect of which there is such protector, the power of disposition hereinbefore contained. R. S. O. 1877, c. 100, s. 24.

The protector to be subject to no control in the exercise of his power of consenting.

25. Any device, shift, or contrivance by which it is attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void; and the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent; and no Court shall control or interfere to restrain the exercise of his power of consent, or treat his giving consent as a breach of trust. R. S. O. 1877, c. 100, s. 25.

26. The rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not be held to apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement, upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this Act. R. S. O. 1877, c. 100, s. 26.

Certain rules of equity not to apply between the protector and a tenant in tail.

27. Where a tenant in tail of lands under a settlement has created in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration and afterwards, by any assurance other than a lease not requiring enrolment, makes a disposition, under this Act, of the lands in which such voidable estate has been created, or any of them, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector (if any) of the settlement, or by the tenant in tail alone, if there be no such protector, have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act; but if, at the time of making the disposition, there is a protector of the settlement, and such protector does not consent to the disposition, and the tenant in tail is not without such consent capable under this Act of confirming the voidable estate to its full extent, then such disposition shall have the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this Act of confirming the same without such consent; but if such disposition is made to a purchaser for valuable consideration, not having express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed as against such purchaser and the person claiming under him. R. S. O. 1877, c. 100, s. 27.

A voidable estate by a tenant in tail in favour of a purchaser confirmed by a subsequent disposition of such tenant in tail under this Act, but not against a purchaser for value without notice.

28. If a base fee in any lands, and the remainder or reversion in fee in the same lands, were on the 18th day of May, 1846, or at any time since have been, or after this Act takes effect are united in the same person, and there is no intermediate estate between the base fee and the remainder or reversion, then the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act, if such remainder or reversion had been vested in any other person. R. S. O. 1877, c. 100, s. 28.

Base fees when united with the immediate reversions enlarged instead of being merged.

29. Every disposition of lands under this Act by a tenant in tail thereof shall be effected by some one of the assurances (not being a will) by which such tenant in tail could, before *The Ontario Judicature Act, 1881*, have made the disposition if his estate were an estate at law in fee simple absolute; but no disposition by a tenant in tail shall be of any force, under this Act, unless made or evidenced by deed; and no dispo-

Tenant in tail may make a disposition by deed but not by will or contract. 44 V. c. 5.

sition by a tenant in tail resting only in contract, either express or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force under this Act, notwithstanding such disposition is made or evidenced by deed. R. S. O. 1877, c. 100, s. 29; 47 V. c. 19, s. 22.

Assurances by a tenant in tail, other than certain leases to be inoperative unless registered within six months.

30. No assurance by which any disposition of lands is effected under this Act by a tenant in tail thereof (except a lease for any term not exceeding twenty-one years, to commence from the date of such lease, or from any time not exceeding twelve months from the date of such lease, where a rent is thereby reserved, which, at the time of granting such a lease is rack-rent, or not less than five-sixth parts of a rack-rent) shall have any operation under this Act unless it is registered in the registry office of the registry division wherein the lands referred to lie, within six months after the execution thereof. R. S. O. 1877, c. 100, s. 30.

Consent of protector to be by the same or a distinct deed.

31. The consent of a protector of a settlement to the disposition under this Act of a tenant in tail, shall be given either by the same assurance by which the disposition is effected, or by a deed distinct from the assurance, and executed either on or at any time before the day on which the assurance is made, otherwise the consent shall be void. R. S. O. 1877, c. 100, s. 31.

If by distinct deed, to be deemed unqualified unless otherwise expressed.

32. If the protector of a settlement gives his consent to the disposition of a tenant in tail by a distinct deed, it shall be considered that such protector has given an absolute and unqualified consent, unless in such deed he refers to the particular assurance by which the disposition is effected, and confines his consent to the disposition thereby made. R. S. O. 1877, c. 100, s. 32.

Protector not to revoke his consent.

33. The protector of a settlement, who, under this Act has given his consent to the disposition of a tenant in tail, shall not revoke such consent. R. S. O. 1877, c. 100, s. 33.

A married woman protector.

34. A married woman, being, either alone or jointly with her husband, protector of a settlement, may, under this Act in the same manner as if she were a *feme sole*, give her consent to the disposition of a tenant in tail. R. S. O. 1877, c. 100, s. 34.

Consent by distinct deed void, unless registered with or before assurance.

35. The consent of a protector to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition is effected by the tenant in tail, be void, unless such deed is registered in the registry office of the registry division wherein the lands referred to lie, either at or before the time of the registry of the assurance. R. S. O. 1877, c. 100, s. 35.

36. In cases of disposition of lands under this Act by tenants in tail thereof, and also in cases of consents by protectors of settlements to dispositions of lands under this Act by tenants in tail thereof, the equitable jurisdiction of the Courts shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration, or not, in regard to the specific performance of contracts and the supplying of defects in the execution either of the powers of disposition given by this Act to tenants in tail, or of the powers of consent given by this Act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement, which in a Court of Law, before the passing of the *The Administration of Justice Act of 1873*, would not, but for the provisions conferring equitable jurisdiction on Courts of Law enacted by the said Act, and re-enacted in the Revised Statutes, 1877, be an effectual disposition or consent within the meaning of this Act; and no disposition of lands under this Act by a tenant in tail thereof in Equity, and no consent by a protector of a settlement to a disposition of land under this Act by a tenant in tail thereof in Equity, shall be of any force, unless such disposition or consent would have been, in case of an estate tail at Law, before the said Administration of Justice Act, an effectual disposition or consent within the meaning of this Act in a Court of Law, but for the provisions aforesaid. R. S. O. 1877, c. 100, s. 36.

Equitable jurisdiction of the Courts excluded from giving any effect to dispositions in tail, etc.

36 V. c. 8.

37. In every case in which the High Court is the protector of a settlement, such Court, while protector of such settlement, shall, on motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition, under this Act, by such tenant in tail; and the disposition to be made by such tenant in tail upon such motion or petition as aforesaid, shall be such as may be approved of by the said Court, and the said Court may make such orders in the matter as may be thought necessary; and if such Court, in lieu of any such person as aforesaid, is the protector of a settlement, and there is any other person protector of the same settlement jointly with such person as aforesaid, then and in every such case the disposition by the tenant in tail, though approved of as aforesaid, shall not be valid, unless such other person, being protector as aforesaid, consents thereto in the manner in which the consent of the protector is by this Act required to be given. R. S. O. 1877, c. 100, s. 37.

When the High Court may consent to a disposition by a tenant in tail and make such orders as are thought necessary.

38. In every case in which the High Court is the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a

Order of the High Court to be evidence of consent.

tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition has been made. R. S. O. 1877, c. 100, s. 38.

Mode of disposition of money subject to be invested in lands to be entailed.

39. Lands to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof is subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, shall, for all the purposes of this Act, be treated as the lands to be purchased, and be considered subject to the same estates as the lands to be purchased would, if purchased, have been actually subject to; and all the previous clauses in this Act, so far as circumstances will admit, shall, in the case of the lands to be sold as aforesaid being either freehold or leasehold, or of any other tenure, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be freehold, and were actually purchased and settled; and shall, in case of money subject to be invested in the purchase of lands to be so settled as aforesaid, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold lands, and such lands were actually purchased and settled; except that in every case, where under this section a disposition is to be made of leasehold lands for years absolute or determinable, so circumstanced as aforesaid, or of money so circumstanced as aforesaid, such leasehold lands or money shall, as to the person in whose favour or for whose benefit the disposition is made, be treated as personal estate, and the assurance by which the disposition of such leasehold lands or money is effected shall be an assignment by deed, which shall have no operation under this Act unless registered in the registry office of the registry division in which the lands therein referred to lie, within six months after the execution thereof. R. S. O. 1877, c. 100. s. 39.

CHAPTER 104.

An Act respecting the Partition and sale of
Real Estate.

SHORT TITLE, s. 1.	PROCEEDINGS IN DEFAULT OF ANSWER, s. 34.
INTERPRETATION, s. 2.	PETITIONERS TO PROVE TITLE, s. 35.
JURISDICTION OF HIGH COURT, s. 3.	PARTITION, BY REAL REPRESENTATIVE, ss. 36-39.
REAL REPRESENTATIVE, s. 4.	SALE, WHEN MAY BE HAD, AND PROCEEDINGS, ss. 35, 40-43.
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COURTS IN WHICH PROCEEDINGS MAY BE INSTITUTED, s. 6.	Payment of incumbrances, ss. 47, 48.
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GUARDIANS FOR INFANTS AND PERSONS UNHEARD OF FOR THREE YEARS, ss. 12-20.	ESTATES OF MARRIED WOMEN TO BE BOUND, s. 52.
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SERVICE OF PETITION :	DEED, CONTENTS, EXECUTION, AND EFFECT, s. 54.
In cases of parties in Ontario, s. 22.	APPORTIONMENT OF COSTS, s. 55.
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ALLOWANCE OF PETITION, ss. 28-30.	SECURING PURCHASE MONEY, ss. 57-61.
PLEADING TO PETITION, ss. 31-32.	MISCELLANEOUS, ss. 62-69.
TRIAL OF ISSUES, s. 33.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Partition Act.*" R. S. O. Short title. 1877, c. 101, s. 1.

2. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears—

1. "Land" and "Lands" shall include lands, tenements, "Land." and hereditaments, and all estates and interests therein ;

2. "Petitioner" or "Plaintiff" shall include all parties petitioning by virtue of this Act; and all parties, or those made parties to the proceedings under this Act (other than the plaintiffs or petitioners), shall be defendants. R. S. O. 1877, c. 101, s. 2.

Jurisdiction
of High Court.

3. In regard to the partition and sale of estates of joint-tenants, tenants in common and coparceners, the High Court, in addition to the powers hereinafter conferred, shall possess the same jurisdiction as by the laws of England on the 10th of August, 1850, was possessed by the Court of Chancery in England, and also as by the laws in force in Ontario, was possessed by the Courts of Queen's Bench and Common Pleas. R. S. O. 1877, c. 40, s. 53.

Judge of Sur-
rogate Court
to be real re-
presentative

4. The Judge of the Surrogate Court in every county shall be the real representative for all real property within the county, in respect of or to which any person being seised of, or entitled to any estate in fee simple therein, dies intestate, and for all other purposes hereinafter mentioned. R. S. O. 1877, c. 101, s. 3.

All parties
having inter-
est or lien may
be compelled
to make parti-
tion or sale.

5. All joint tenants, tenants in common, and co-parceners, all dowresses, and parties entitled to dower, tenants by the curtesy, mortgagees or other creditors having liens on, and all parties whosever interested in, to or out of, any lands in Ontario, may be compelled to make or suffer partition or sale of the said lands, or any part or parts thereof, as hereinafter mentioned and provided, and the partition may be had whether the estate is legal or equitable, or equitable only. R. S. O. 1877, c. 101, ss. 4, 7.

In what Court
proceedings to
be instituted.

6. Where the lands are situate in two or more counties, the proceedings shall be instituted in the High Court, and where the lands are situate in one county only, the proceedings may be instituted in the County Court of the county, or in the High Court. R. S. O. 1877, c. 101, s. 5.

Proceedings
removable
from County
Court to High
Court.

7. The proceedings, upon petition, if commenced in a County Court, may at any time before judgment be removed into the High Court by *certiorari*, to be allowed by a Judge of the Court, on security being given by the party applying for the *certiorari*, for the costs of the proceedings on petition, to the satisfaction of the Judge; and upon any final judgment, decree or order, an appeal may be had by any of the parties interested, in the same manner, and with the same consequences, as in other cases of appeal from the decision of any Court rendering such judgment, decree or order. R. S. O. 1877, c. 101, s. 6.

Any parties
interested may
petition for
partition or
sale.

8. Any party interested in any land in this Province, or the duly authorized agent of such party, or the guardian (duly appointed by a Surrogate Court) of an infant entitled to the immediate possession of any estate therein, may file a petition in any of the Courts aforesaid, praying that partition of such lands may be made, or that the same may be sold under the directions of the Court wherein the proceedings are taken, or of a Judge thereof: provided that such sale be considered by the said Court or Judge more advantageous to the parties

interested: but no proceedings shall be taken under this Act until one year next after the decease of the testator or party dying intestate, in whom the lands or estate in lands to be so partitioned or sold may be vested. R. S. O. 1877, c. 101, s. 8

9. All proceedings under this Act shall be entitled in the Court in which the same are instituted, and shall be further described as follows:

"In the matter of partition between A. B. (naming the petitioner, or if more than one, naming all the petitioners in full), plaintiff (or plaintiffs), and C. D. (naming every then known party having any legal estate in the lands other than the petitioners) defendants."

R. S. O. 1877, c. 101, s. 9.

10. Every party having, at the time of filing the petition, any interest as aforesaid, shall be made a party to the partition proceedings; and the petition shall particularly describe the lands sought to be partitioned or sold, and shall also set forth the interest of the petitioner or petitioners therein, and his, or their respective place or places of residence and occupation, and the estate, rights and titles of all parties interested therein in anywise whatsoever, so far as the same are known to the party or parties petitioning as aforesaid; and in case one or more of such parties, or the share or extent of interest, or estate in the said lands of any party interested, is or are unknown to the petitioner or petitioners, he or they shall set forth the fact thereof in the petition. R. S. O. 1877, c. 101, s. 10.

Every person having an interest shall be made party.

What petition shall set forth.

11.—(1) The truth of the petition, and matters contained therein, shall be verified by the oath or affirmation of at least one petitioner, or his agent or guardian, as the case may be. The oath or affirmation may be taken before a Judge of any of the said Courts, a Commissioner for taking affidavits therein, or a Notary Public. R. S. O. 1877, c. 101, s. 11; 48 V. c. 16, s. 1.

To be verified by oath.

(2) If in such case there is more than one infant defendant, for whom service is to be made on the official guardian, one copy only need be so served.

(3) From the time of such service the official guardian shall become and be the guardian *ad litem* of the infant unless and until the Court otherwise orders; and it shall be his duty forthwith to attend actively to the interests of the infant in the action, and for that purpose to communicate with all proper parties, including the father or guardian (if any) of the infant, and also the person with whom or under whose care the infant resides, in case such person is not the infant's father or guardian; and the guardian is to make such other inquiries and to take such other proceedings as the interests of the infant may require. 44 V. c. 5, Rule 36, part.

In case party interested be an infant.

12. In case any of the parties interested, other than a petitioner by guardian, is an infant, and the petition is not served on the official guardian under the preceding section, and in case it is proved to the satisfaction of the Court or a Judge that at least fourteen days' notice has been served on the infant, if resident in the Province of Ontario, or otherwise served as hereinafter provided, that proceedings will be taken under this Act for the partition or sale of the lands, and that the Court or Judge will be applied to, at the time and place specified in the notice, to appoint a guardian to represent the infant in the proceedings, the Court or Judge shall and may thereupon, whether the said infant resides within or without the Province, appoint a suitable and disinterested person to be a guardian for the infant for the special purpose of taking charge of the interests of the infant in the proceedings upon the petition. R. S. O. 1877, c. 101, s. 12.

Guardians to enter into a bond with sureties.

13. Every guardian appointed under the preceding section unless he is the official guardian, shall, before entering upon his duties, execute to the real representative of the county wherein the estate, or any part thereof, is situate, by his own name of office as Surrogate Judge and real representative for the county, and his successors in office, and according to the terms of the rule or order appointing the guardian, a bond in such penalty, and with such sureties as the Court in which the proceedings are to be taken, or a Judge thereof presiding in Chambers, directs, and to be allowed by an officer of the Court to be named in the order, upon proper proof of the sufficiency thereof, conditioned for the faithful discharge of the trust committed to the guardian, and to render a just and true account of his guardianship when required by the Court or a Judge thereof, and upon such further conditions as the Court or Judge may direct; and no proceedings shall be taken upon the petition until the bond has been filed in the office wherein the petition has been filed. R. S. O. 1877, c. 101, s. 13; 50 V. c. 8, Sched.

Guardians to represent infants.

14. After the execution and filing of the bond, the guardian shall represent the infant in the proceedings upon the petition; and his acts in relation thereto shall be binding on the infant, and shall be as valid as if done by the infant after having arrived at full age. R. S. O. 1877, c. 101, s. 14.

Proof against and consent on behalf of infant.

15. It shall be necessary that everything be proved against the infant, and it shall not be competent for a guardian to give any consent on behalf of an infant, but the Court or Judge may, on behalf of an infant, where it is deemed advisable in the interest of the infant, consent to such proceeding. R. S. O. 1877, c. 101, s. 15.

Appointment of guardian to estate of person unheard of for three years.

16. If any party interested in the estate respecting which proceedings are, or are proposed to be, taken under this Act, has not been heard of for three years or upwards, and it is a matter

of uncertainty whether such party is living or dead, it shall be competent for a Judge to appoint a suitable and disinterested person to be a guardian, for the special purpose of taking charge of the interest of the said party and of those who, in the event of his being dead, are entitled to his share or interest in the estate. R. S. O. 1877, c. 101, s. 16.

17. The application may be made by any one interested in the said estate, and the Judge making the appointment may give such directions as may be necessary for the execution of sufficient bonds which shall be entered into by the guardian so appointed, with sureties in the manner provided by section 13 of this Act. R. S. O. 1877, c. 101, s. 17.

Application to
appoint guar-
dian

18. After the execution and filing of the bond, the guardian shall, in the proceedings, represent the said party, and those who, should he be dead, are entitled to his share or interest in the estate, and whether they or any of them are infants or otherwise under disability; and his acts in relation to such share or interest shall be binding on such party, and all others claiming or entitled to claim under or through him, and shall be as valid as if done by him or them. R. S. O. 1877, c. 101, s. 18.

Powers of
guardian.

19. It shall be competent for the Court in which the proceedings are taken, upon proof of such long continued absence of the said party as affords reasonable ground for believing him to be dead, upon the application of the guardian, or any one interested in the estate represented by the guardian, to deal with the estate or interest of such party, or the proceeds thereof, and order the payment of the proceeds, or the income or produce thereof, to the person who, in the event of the said party being regarded as dead, appears entitled to the same. R. S. O. 1877, c. 101, s. 19.

Power of the
Court to deal
with the
estate.

20. Any guardian appointed under this Act shall be at liberty to apply to the Court from time to time, for direction and guidance in the management of the estate, and for compensation for his services in connection therewith; and the Court, or Judge may make all such orders, and give such directions in reference thereto, as appear just. R. S. O. 1877, c. 101, s. 20.

Guardian may
apply to the
Court for
guidance.

21.—(1) It shall not be compulsory, in the first instance, to make any person having a lien, on the estate, or any part thereof, by decree, mortgage or otherwise, a party to the proceedings, but the petitioner may make such creditor a party, and, in such case, the petition shall set forth the nature of the lien or incumbrance; and if the lien or incumbrance is on the undivided interest or estate of any of the parties to the petition, it shall be a lien only on the share of such party; and such share or estate, as the case may be, shall be first charged with its just proportion of the costs of the proceedings in partition in preference to any such lien.

Incumbran-
cers may be
made parties
after proceed-
ings com-
menced.

Proviso.

(2) If the person having the lien is not made a party to the proceedings, his lien shall not be impaired or affected thereby. R. S. O. 1877, c. 101, s. 21.

How petition served when all parties in Ontario.

22.—(1) In cases where all the parties interested, or known to be interested, in the estate respecting which the proceedings are taken under this Act, are residents, or happen, for the time being, to be in the Province, a copy of the petition, with notice that the same will be presented to the Court wherein the proceedings are taken, or a Judge thereof presiding in Chambers, on some day and hour to be named therein, shall be personally served thirty clear days previous to the day of presenting the same as aforesaid, on all the parties, whether infants or not, resident or being as aforesaid in the Province, who are interested in the lands and estate in question, or on any duly authorized agent or attorney of any of the parties interested in the estate.

(2) Every such notice shall be addressed to all the parties interested who are known, and generally to all others who are unknown, having or claiming any interest in the estate, or whom it may concern.

(3) It shall not be necessary to serve the petition or notice upon a guardian appointed as aforesaid, if the same has been previously served upon the infant for whom the guardian has been appointed. R. S. O. 1877, c. 101, s. 22.

How petition served when parties are unknown, or reside abroad, etc.

23.—(1) If any parties having such interest are unknown, or if known, reside out of the Province, or cannot be found therein, and have no known attorney or agent residing therein, the petition and notice may be served upon them, or any of them, by publication of a notice which shall set forth the names of the plaintiffs and defendants, and shall be directed to the defendants and to all unknown persons having or claiming any interest in the land, and describing it as it is described in the petition, and stating the Court to which, and the time and place when and where, the petition will be presented, and calling upon all persons then and there to appear and state what claims, if any, they have to the land, and stating that in default of their so appearing the matter will be proceeded with in their absence.

(2) The form of the notice shall be settled in each case by the Judge before publication thereof. R. S. O. 1877, c. 101, s. 23.

Publication of notice in *Gazette* and news-papers.

24. The notice shall be published in the *Ontario Gazette* for four weeks before the presentation of the petition, and in a paper published in the county within which the lands lie, and if there is no such paper, then in a newspaper published in the City of Toronto once in each week for four weeks before the time when the petition is to be presented. R. S. O. 1877, c. 101, s. 24.

25. A copy of the notice shall be put up at or near the door of the court house of the county wherein the lands lie more than four weeks before such time, and shall at the same time be put up at the school-house of the section or school division within which the land is situate. R. S. O. 1877, c. 101, s. 25.

Notice to be posted on court-house and school house.

26. Such publication, upon proof thereof by affidavit, shall to all intents and purposes be equivalent to personal service upon all or any such unknown or absent parties. R. S. O. 1877, c. 101, s. 26.

Publication of notice equivalent to personal service.

27. The petition and notice may be personally served, without such publication, on any known absent party or upon his solicitor or agent if he has any, residing in Ontario, thirty clear days previous to the presentation thereof, and the reasonable costs of serving any absent party shall be taxable as costs of the proceedings. R. S. O. 1877, c. 101, s. 27.

Service may be made upon solicitor or agent in Ontario.

28. Upon the presentation of a petition and upon such proof of service or publication thereof, with the notice as aforesaid, and of the facts justifying the mode of publication, as may be satisfactory, the Court or a Judge thereof presiding in Chambers shall and may by order allow the petition. R. S. O. 1877, c. 101, s. 28.

Allowance of petition.

29. Immediately after the allowance of the petition, upon the application of the party prosecuting the same, the officer with whom the petition has been filed, shall sign a certificate which shall set forth that the petition was allowed for partition of the lands and tenements, describing them, which certificate may be registered in the registry office of the registry division in which the lands lie. R. S. O. 1877, c. 101, s. 29.

Registration certificate of allowance.

30. Upon the petition being allowed, notice of the order of allowance, copies thereof, and all other orders, copies, notices or other paper writings in any proceeding, subsequent to the service of the petition, unless otherwise in this Act specially directed, may be served on the solicitor of any party defending, and in case there is no solicitor, by posting up the same in the office in the county wherein the estate or any part thereof is situate of the Registrar or Deputy Clerk of the Crown when the proceedings are in the Queen's Bench or Common Pleas Division, and in the office of the Clerk of Records and Writs, or Deputy Registrar when the proceedings are in the Chancery Division, and in the office of the Clerk of the County Court when the proceedings are in a County Court, which posting shall be equivalent to and as effectual as personal service on the party or parties to be affected thereby. R. S. O. 1877, c. 101, s. 30.

How notice of allowance, etc., served.

Parties interested may appear and shew title.

31. Upon the allowance of the petition the parties interested in the estate shall and may appear in person or by solicitor, and by a concise statement of facts under oath, by way of defence, and further, according to the practice of the Court in which the petition has been filed, shew title as to the proportions which they or any of them claim of the premises set forth in the petition, within fifteen days next after being served with a copy of the order, with a notice annexed thereto or endorsed thereon, requiring them to answer within the time above specified. R. S. O. 1877, c. 101, s. 31.

Parties may plead, etc.

32. A party appearing may answer under oath, either separately or jointly with one or more of his co-defendants, that the petitioners, or any of them, at the time of prosecuting the petition, were not entitled to or in possession of the premises or any part thereof; or that the defendants, or any of them, had no interest in the premises, or did not hold the same, together with the petitioners, at the time of the commencement of the proceedings as alleged in the petition: or such other matter as such person shall desire to set up in answer according to the facts; and, at the expiration of the fifteen days allowed for answering, the petitioner or petitioners may, upon a verified copy of the petition and of all pleadings that may have been filed as aforesaid, and upon exhibiting *prima facie* proof of his, or their title, and upon such statement or affidavit as may be necessary, apply to the Court or a Judge in Chambers to finally determine any issues or questions raised by any party or parties interested; or for an order directing the trial of any issues of fact that may have been raised by the pleadings; or that a special case may be stated for the opinion of the Court in which the petition has been filed; or both for the trial of an issue of fact or law; or for any other order that the Court or a Judge may think proper under the circumstances. R. S. O. 1877, c. 101, s. 32.

Issues to be tried thereon.

33. All issues joined and ordered to be tried by the Court or a jury, shall be tried by the Court or jury, in the same manner as other issues are determined, on a record made up of the petition and of the defence pleaded thereto; and the like proceedings shall be had thereupon in every respect as to new trials or amendments, and any other particulars as in ordinary actions; and any special case so ordered as aforesaid, may be made up and proceeded upon, inclusive of signing judgment thereon, in like manner as the law directs for the practice as to special cases. R. S. O. 1877, c. 101, s. 33.

Proceedings in default of answer, etc.

34. If none of the parties answer within fifteen days next after the service as aforesaid of the order of allowance of the petition, the petitioner shall be at liberty to sign judgment of partition, and thereupon and upon giving and serving fifteen days' written notice thereof, in manner

hereinbefore provided, and upon exhibiting the evidence and proof in the next section of this Act mentioned, may apply to the Court or a Judge for the order mentioned in the next and following sections and proceed in the manner in the said sections provided. R. S. O. 1877, c. 101, s. 34.

35.—(1) The petitioners shall, whether or not the other parties who have been called upon to appear and answer have appeared and answered, exhibit *prima facie* proof of their title at the time of the application for the order for partition; or if an issue in fact has been ordered or a special case stated as aforesaid, then upon the final determination of the questions of law or fact, (if any,) so ordered to be tried as aforesaid, or in any or either of the cases aforesaid, the Court or a Judge shall, by order, determine and declare the rights, title and interests of all the parties concerned, and thereby order the real representative to proceed as hereinafter directed according to such rights, but not so as to affect any parties whose rights have not been ascertained. Petitioners to prove title, etc.

(2) The Court or Judge, may, if it seems expedient to the said Court or Judge, in the first instance order a sale of the said lands without a reference to the real representative. R. S. O. 1877, c. 101, s. 35. Judge may order a sale without a reference.

36. The Court or Judge shall, by the order of partition in the last section mentioned, direct the real representative to make the partition so adjudged according to the respective rights and interests of the parties, as the same may have been ascertained and determined as aforesaid; and in the order the Court or the Judge shall designate the parts or shares which remain undivided for the owners whose interests are unknown and not ascertained; and the real representative shall forthwith proceed to make such partition, according to the judgment of the Court or Judge, unless it appears to him that the partition cannot be made without prejudice to the owners of the estate, in which case he shall make a return of such fact to the Court in writing under his hand. R. S. O. 1877, c. 101, s. 36. Order on real representative to make partition.

37. In making the partition the real representative shall divide the real estate and allot the several portions and shares thereof to the respective parties so adjudged as aforesaid, designating the several shares by posts, stones or other permanent monuments; and he may employ a surveyor to assist him therein; and he shall make or cause to be made a true and accurate plan or map and field book of the land, and shall describe particularly the metes and bounds of the same; and he shall return to the Court or Judge having cognizance of the proceedings, the plan or map, field book and description, and shall report to the Court or Judge in writing the manner in which he has divided the estate, and the share allotted to each party, with the quantity, courses and distances of the bound- How partition shall be made.

Report and return thereon.

aries of each share, and a description of the posts, stones or other monuments, together with an account of his fees, which fees, together with any charges for surveys, shall be ascertained and allowed by the Court or Judge; and the amount shall be paid by the petitioners, and shall be allowed to them as part of the costs to be taxed against the estate. R. S. O. 1877, c. 101, s. 37.

Report to be proved, etc.

38. The report shall be proved by affidavit before a notary public or a commissioner for taking affidavits, and shall be filed in the Court; and a copy thereof, after the report is confirmed by the Court, and certified under the hand of the registrar or clerk of the Court, and under the seal of the Court, shall be registered in the registry office of the registry division in which the estate is situate, on the production of the copy to the registrar. R. S. O. 1877, c. 101, s. 38; 48 V. c. 16, s. 1.

Report to be confirmed or remitted for amendment.

39. Upon the return of the report, the Court or a Judge in Chambers may confirm the same, or remit the same back to the real representative for amendment in any particular or particulars in which there is manifest error; and upon a final confirmation a Judge's order may be granted and obtained, confirming in due form the said report; and the order shall be binding and conclusive on all known parties named in the petition, and where publication has been made as aforesaid, then also upon all unknown and absent parties, and all persons claiming from or through them; but the judgment shall not affect any person or persons having claims as tenants, tenants in dower, or by the curtesy, or for life, to the premises which form the subject of the partition, nor any person not named in the petition, either originally or by amendment, nor any unknown person, where there has not been publication as aforesaid. R. S. O. 1877, c. 101, s. 39.

Effect of confirmation.

Sale if partition prejudicial.

40. Upon the report of the real representative that it appears to him that partition cannot be made without prejudice to the owners of, or parties interested in the estate, the Court or a Judge in Chambers may order a sale of the estate, if deemed prudent so to do; and, by an order to be made on filing the report, may direct and order the real representative to cause the estate, or any part thereof, to be sold by a fit and proper duly licensed auctioneer (to be approved of by the real representative), at public auction to the highest bidder, reserving to the real representative power, from time to time, to adjourn the sale, if in his judgment an adequate price is not bid for the estate, or any part thereof; and in the order, the Court or Judge shall direct the terms of payment of the purchase money, and the credit which may be allowed for any portions thereof, of which the Court or Judge may think proper to direct the investment, and which are required, by the provisions hereinafter contained, to be invested for the benefit of any unknown owners, infants, parties out of the Province,

or any tenants for life, in dower, or by curtesy or otherwise ; and the portions of the purchase money for which credit is allowed shall be secured at interest by a mortgage of the premises sold, by a covenant or bond of the purchaser, and by such other security as the Court or Judge aforesaid may prescribe in the order, or direct. R. S. O. 1877, c. 101, s. 40.

[See Cap. 108, ss. 54-58, as to preference of purchase given to the person who would have been heir-at-law prior to 1st Jan., 1852.]

41—(1) The real representative may take separate mortgages or other securities for such convenient shares or portions of the purchase money as have been directed to be invested as aforesaid, in his name of office as Surrogate Judge and real representative for the county, and his successors in office, and for such shares as have been directed to be invested in the name of any known owner or party interested of full age, in the name of such person. Mortgages taken on sale.

(2) Upon the sale being confirmed, the real representative shall deliver the mortgage to the clerk or registrar of the Court as the case may be, or deliver or assign the same to the known owner of the full age of twenty-one years, whose share has been ascertained and so invested. R. S. O. 1877, c. 101, s. 41.

42. Where the notice of the petition has been published as required by this Act, the order for sale shall state that the notice has been so published, and that the sale will bind absent persons, whether known or unknown. R. S. O. 1877, c. 101, s. 42. Order for sale.

43. Before making an order for sale, where the plaintiff desires to bind absent or unknown persons, the Court or Judge shall be satisfied that all persons who are known have been served with notice of the proceedings, and that the proper publication has taken place as directed by this Act; and the party prosecuting the proceedings shall produce to the Court or Judge, in addition to all title deeds, an abstract of the title of the lot, certified by the registrar of the registry division in which the lands lie. R. S. O. 1877, c. 101, s. 43. Orders binding absent or unknown persons.

44. Before making an order for sale, where any creditors have specific liens on the whole estate, or any undivided interest or estate therein of any of the parties, by means of any mortgage or other lien or security sufficient to bind lands according to the law of this Province, the Court or Judge in Chambers shall direct a reference to an officer of the Court, to be named in the order to ascertain and report whether the shares or interests in the premises of the parties in the proceeding, or any of them, are subject to any and what general lien or incumbrance as aforesaid. R. S. O. 1877, c. 101, s. 44. Reference as to liens, charges, etc.

Reference
may be em-
bodied in or-
der for sale.

45. The reference may be embodied in the order directing a sale, and the order may direct payment out of the proceeds of the sale of the lands of such liens or charges. R. S. O. 1877, c. 101, s. 45.

Proceedings
on reference.

46. The officer to whom the reference is directed shall forthwith cause a notice to be published once in each week for three weeks, in some paper, if there is one, published in the county or counties where the lands are situate, or if there is none published therein, then in a paper published in the nearest county thereto, requiring all parties having any lien or incumbrance as aforesaid, on the whole or any part of the estate, to produce to the said officer, on or before a certain day to be named in the notice, full particulars of all such liens and incumbrances, together with satisfactory evidence of the amount due thereon; and the said officer shall immediately thereafter report to the Court or Judge the names of the creditors, the nature and extent of the incumbrance, the date thereof, and the several amounts appearing to be due thereon; and thereupon the Court or Judge, in the order directing the real representative to partition or sell the lands, shall also make reference to such liens and incumbrances, and define the same; and the real representative shall, in making the partition, be governed accordingly; and in any order directing the sale of the lands, or any part thereof, the Court or Judge shall and may authorize and direct the real representative to pay, satisfy and discharge the amounts of the liens or incumbrances so ascertained, with any accrued interest thereon, up to the time of payment thereof, after deducting therefrom the portion of costs, charges and expenses to which the same may be liable. R. S. O. 1877, c. 101, s. 46.

Creditors,
etc., may ap-
ply for pay-
ment out of
purchase
money.

47. Any party entitled as creditor as aforesaid or otherwise to a share of the estate, may apply to the Court or a Judge to order the part of the purchase money which he claims to be paid to him, on affidavit shewing the amount truly due on each incumbrance (if any), the owner of the incumbrance and his residence, so far as known to such party, and also on proof of the due service of a notice on the petitioners and parties to the proceedings, and on every other incumbrancer, or on their solicitors or agents, of the intention to make the application at least fifteen days previous thereto, such service in any case where not made on the solicitor or agent, to be personal, or on a grown-up person at the usual or last known place of abode of the person to be served, if residing in this Province, and if residing out of this Province, sixty days previous thereto, or by previously publishing the notice once a week for two calendar months in a weekly paper published in the county or counties where the estate is situate. R. S. O. 1877, c. 101, s. 47.

48. The real representative shall and may, upon due proofs of identity, and upon the amounts thereof being ascertained and proved as aforesaid, upon the order of the Court or Judge in that behalf granted, pay each creditor as aforesaid from and out of the purchase money, the amount of his claim according to the priority thereof respectively, and shall cause the same to be duly discharged of record, first defraying and deducting the expenses and costs out of the moneys payable on the share or shares which were so incumbered; but the proceedings to ascertain the amount of the incumbrances shall not affect or delay the paying over or investing of money to or for any party upon whose estate in the premises there does not appear to be any existing incumbrance. R. S. O. 1877, c. 101, s. 48.

Real representative may pay creditors on order of Court.

49.—(1) In case of an action or proceeding for partition or administration in which a partition or sale of land is ordered, and in which the estate of any tenant in dower or tenant by the curtesy or for life is established, if the person entitled to the estate is a party the Court or Judge shall determine whether the estate ought to be exempted from the sale or whether the same should be sold; and in making such determination regard shall be had to the interests of all the parties.

Sale of estate of tenant in dower, by the curtesy or for life.

(2) If a sale is ordered including such estate, all the estate and interest of every such tenant shall pass thereby; and no conveyance or release to the purchaser shall be required from such tenant; and the purchaser, his heirs and assigns, shall hold the premises freed and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share, or to the whole or any part of the premises sold.

(3) In such case the Court or Judge may direct the payment of such sum in gross out of the purchase money to the person entitled to dower or estate by the curtesy or for life, as may be deemed, upon the principles applicable to life annuities, a reasonable satisfaction for such estate; or may direct the payment, to the person entitled to dower or estate by the curtesy or for life, of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as may be necessary. R. S. O. 1877, c. 101, s. 49 (1); 42 V. c. 22, s. 5.

50. Where a married woman is a party to such action or proceedings in respect to an inchoate right of dower, then in case of sale, the Court shall determine the value of such right according to the principles applicable to deferred annuities and survivorships, and shall order the amount of such value to be paid; or shall order the payment to such married woman,

Determining value of claim to inchoate right of dower.

of an annual sum, or of such income or interest as is provided in the preceding section, and such payment shall be a bar to any right or claim of dower. R. S. O. 1877, c. 101, s. 49 (2). 42 V. c. 22, s. 6.

Notices of sale.

51. The real representative shall give notice of any sale to be made by him for such time and in such manner as he may see fit; and the terms of such sale shall be set out in the notice and made known at the time of the sale; and after the completion thereof, he shall report the same in writing to the Court, with a description of the different parcels of land sold to each purchaser, and the prices at which the same have been sold; and, at the expiration of fifteen days next after the said sale and the due filing of the report, the sales may be approved and confirmed by the Court or a Judge thereof; and an order shall be made directing the real representative to execute deeds pursuant to such sales; and the deeds so executed shall be recorded in the registry office of the registry division in which the lands lie in the same manner as other deeds, and shall be a bar against all known parties interested in the premises, and against all unknown parties where notice was published as aforesaid, and against all persons claiming under or through them, and also against all incumbrancers where the notice hereinbefore mentioned has been given to them, in manner and form aforesaid. R. S. O. 1877, c. 101, s. 50.

Confirmation of sale.

Conveyances.

Estates of married women, etc., to be bound.

52. Any partition or sale made by the High Court shall be as effectual for the apportioning or conveying away of the estate or interest of any married woman, infant or lunatic, party to the proceedings by which the sale or partition is made or declared, as of any person competent to act for himself. R. S. O. 1877, c. 40, s. 55.

Office copy of judgment, etc., to be evidence.

53. An office copy of the judgment, order or report declaring or effecting a partition or sale by the High Court shall be sufficient evidence in all Courts of the partition declared thereby, and of the several holdings by the parties of the shares thereby allotted to them. R. S. O. 1877, c. 40, s. 56.

Deed.

54. Where the notice of the petition has been published as required by this Act, the deed to be executed by the real representative shall set forth the order for sale; and the said deed shall vest in the purchaser an absolute and indefeasible title to the estates and interests, in the lands partitioned, to which all or any of the parties interested therein as co-tenants with the petitioner, or any one claiming under them or any or either of them, or under the petitioner are entitled, and shall be conclusive evidence that every application, notice, publication, proceeding and act whatsoever which ought to have been given and done previously to the execution of the same, has been given and done by the proper parties. R. S. O. 1877, c. 101, s. 51.

Effect of Deed.

55. The Court or a Judge in Chambers shall apportion the costs of the proceedings on the petition, according to the respective shares and interests of the parties, known or unknown, and shall direct the same to be paid to the petitioners, and such order shall operate as a judgment for such costs, and, on a copy thereof being filed in the registry office of the registry division in which the lands lie, shall be a charge for such proportion against the shares representing such proportion; and execution may issue therefor; and such share or interest may be sold thereon, and a valid title on the sale be given to the purchaser thereof, as in the case of sales by sheriffs on execution; and, if judgment is rendered against the petitioners for any cause, the Court or Judge aforesaid shall adjudge costs against them, to be recovered as in ordinary actions. R. S. O. 1877, c. 101, s. 52.

Apportionment of the costs.

56. The proceeds of the sale, after deducting all costs, shall be divided among the parties whose rights and interests have been sold, in proportion to their respective rights in the premises; and the shares of such as are of full age shall be paid to them by the real representative, and, in the case of infants, unknown or absent parties, shall be invested for them in the name of the real representative and his successors in office, until lawfully claimed by them or their legal representatives; and the real representative may, in his discretion, require all or any of the parties, before they receive any share of the moneys arising from the sale, to give security to his satisfaction that they will refund the said shares with interest thereon in case it should thereafter appear that such parties were not entitled thereto. R. S. O. 1877, c. 101, s. 53.

Application of proceeds.

57. All securities shall be taken in the name of the real representative and his successors in office, and the real representative shall keep, and see to the due collection of such securities. R. S. O. 1877, c. 101, s. 54 (1).

How securities taken.

58. The Court or Judge may, if it or he thinks fit, direct the interest, or an adequate portion thereof, accruing from time to time on any minor's share, to be applied towards his maintenance. R. S. O. 1877, c. 101, s. 54 (2).

Allowance for maintenance of infants.

59. All investments of moneys received from sales under this Act shall be made in Dominion stock, or other public security of the Dominion of Canada, or of this Province. R. S. O. 1877, c. 101, s. 55.

How moneys invested.

60.—(1) All moneys which may be from time to time payable in respect of sales under this Act, or of securities taken in the name of the Surrogate Judge, shall be paid into some incorporated bank designated for this purpose, from time to time, by order of the Lieutenant-Governor in Council; or where there is no such bank, then into some incorporated bank in which public money of the Province is then being deposited.

Payment into Court.

Procedure. (2) The money shall be so paid in to the credit of the matter in which the payment is made, with the privity of the clerk of the County Court, and in no other manner; and such money shall only be withdrawn or reinvested on the order of the Court or a Judge thereof, with the privity of the clerk of the Court.

Clerk to keep books and render statements. (3) The clerk shall keep a book or books containing an account of all moneys so paid in, and of the withdrawal thereof; and shall prepare in the month of January in every year a statement of all moneys so paid in and withdrawn, or reinvested respectively, and a statement of the condition of the various accounts upon the 31st day of the preceding December, and shall transmit to the Provincial Secretary and to the real representative, a copy of the statement, with a declaration thereto annexed made before a justice of the peace, notary public or commissioner for taking affidavits in the form following:

Verification of statement by Clerk. I hereby solemnly declare that the annexed statement is a full and true statement of the moneys paid into the Court, to the credit of the real representative of the County of _____, under *The Partition Act*, during the year 18____, and that it correctly shews the state of the various accounts therein mentioned upon the thirty-first day of December last.

(Signature) A. B.,
Clerk.

Subscribed and declared before me, at _____, this _____ day of January, 18____.

C. D.,
Commissioner for taking affidavits, or
as the case may be.

Books to be open for inspection. (4) The book or books so to be kept shall be open for inspection within office hours; and the clerk shall give a certificate of the state of any account or an extract therefrom at the desire of any party interested, or his solicitor on payment to the clerk of the sum of twenty cents for such inspection or certificate and the sum of ten cents per folio for such extract. R. S. O. 1877, c. 101, s. 56; 48 V. c. 16, s. 1.

Investments before 23 Jan., 1869, declared valid. **61.—**(1) All investments made prior to the 23rd day of January, 1869, on mortgage of real estate, and all acts and proceedings before said day done and performed, by virtue of the Partition Acts then in force, by any real representative shall be and the same are hereby declared valid and effectual.

Releases and discharges. (2) The successors in office, or any of them, of any deceased or other real representative, or any real representative for the time being, shall be and each of them is hereby duly empowered, upon payment having been made to any predecessor or himself in full of any sum or sums of money secured by mortgage, by virtue of this or any former Partition Act, to any predecessor or deceased predecessor in his lifetime, or to any successor or successors in office as such Surrogate Judge and real representative, or to himself, to execute and grant all necessary releases and discharges of the same in manner and form provided by *The Registry Act*. R. S. O. 1877, c. 101, s. 57.

62. The Judge or Junior or acting Judge of the County Court for the time being shall, in case of the decease or absence of the proper Surrogate Judge, be and he is hereby vested, for the time being, with all the functions, powers and authorities for the county, of the person hereby appointed the real representative, and shall perform the duties thereof till the appointment of or return of the Surrogate Judge. R. S. O. 1877, c. 101, s. 58.

63. Proceedings under this Act shall not abate or be suspended by any death, or transmission or change of interest, but in any such event, if known, the Court or Judge may require notices to be given to persons becoming interested, or may make such order for carrying on the proceedings, or otherwise, in relation thereto, as may be just. R. S. O. 1877, c. 101, s. 59.

64. The Court or a Judge shall have the same powers of amendment of all or any of the proceedings under this Act, as are possessed by the Court or a Judge in ordinary actions and proceedings pending in the Court. R. S. O. 1877, c. 101, s. 60.

65. In case at any time during the course of the proceedings it appears that any person not already a party thereto has any interest in the land, the Judge may, upon such terms as to him seem just, order such person to be named as a party and served with notice of the proceedings, and from the time of the service of the order, the said party shall be bound by the proceedings in the same manner as if he had actually been made a party to the same. R. S. O. 1877, c. 101, s. 61.

66. A Judge in Chambers shall have equal power and jurisdiction with the full Court, in all proceedings under this Act, as fully as if specially named therein, except where the word "Court" is in this Act used alone. R. S. O. 1877, c. 101, s. 62.

67. All affidavits, orders, reports and other papers and documents filed with any deputy clerk of the crown or deputy registrar, during the progress of any proceeding under this Act, shall be by him immediately thereafter transmitted to the registrar or clerk of records and writs, or other proper officer of the Division of the High Court in which the petition has been filed, as the case may be, to be preserved and safely kept as muniments of title. R. S. O. 1877, c. 101, s. 63.

68. In the month of January in each year the real representative, the registrar, the clerk of records and writs, or other officer of the Court having in any case the custody of any moneys, bonds, mortgages, securities or investments arising from the sales of such estates for the benefit of any unknown, absent, infant or lunatic parties, where no claim has been made on their behalf for any interest or principal of such investments during the preceding year, shall cause to be

published in the *Ontario Gazette* and a weekly or daily paper published in the county in which the lands or any part thereof are situate, or if no such paper is published therein then in a daily or weekly paper published in the next adjoining or nearest county where such paper is published, weekly for the period of four weeks, a statement of the securities or investments remaining unclaimed, shewing the name of the intestate party, the amount unclaimed, and the property from which the claim has arisen; and such statement shall be verified by the real representative, clerk, or other officer aforesaid under oath; and a copy thereof shall be filed among the records of the Court. R. S. O. 1877, c. 101, s. 64.

Rules and orders.

Rev. Stat. c. 44, ss. 105, 108.

69. The Judges of the Supreme Court, acting under sections 105 and 108 of *The Judicature Act*, shall make such tariff of fees, Rules and Orders for the proceedings on petitions under this Act as they may deem expedient and advisable. R. S. O. 1877, c. 101, s. 65.

CHAPTER 105.

An Act respecting Short Forms of Conveyances.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation.

1. Where the words following occur in this Act, or in the Schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

“Lands.”

1. “Lands” shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein, respectively.

“Party.”

2. “Party” shall mean and include any body politic, or corporate, or collegiate, as well as an individual. R. S. O. 1877, c. 102, s. 1.

Where words of column 1 of Schedule B are employed the deed to have the same effect as if the words in column 2 were inserted.

2. Where a deed expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in column one of Schedule B hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if it contained the form of words contained in column two of said Schedule B, and distinguished by the same number as is annexed to the form of words used in the deed; but it shall not be necessary, in any such deed, to insert any such number. R. S. O. 1877, c. 102, s. 2.

3. Any deed or part of a deed which fails to take effect by virtue of this Act, shall, nevertheless, be as effectual to bind the parties thereto, as if this Act had not been made. R. S. O. 1877, c. 102, s. 3.

Deeds failing to take effect under this Act to be as valid as if Act not made.

4. Every such deed, unless an exception is specially made therein, shall be held and construed to include all houses, out-houses; edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands therein comprised, belonging or in anywise appertaining, or with the same demised, held, used, occupied and enjoyed, or taken or known as part or parcel thereof; and if the same purports to convey an estate in fee, also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same lands, and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, of the grantor, in, to, out of, or upon the same lands, and every part and parcel thereof, with their and every of their appurtenances. R.S.O. 1877, c. 102, s. 4.

Deed to include all houses, etc., and the reversion and all the estate, etc.

5. The Schedules hereto, and the directions and forms therein contained, shall be deemed parts of this Act. R. S. O. 1877, c. 102, s. 6.

Schedules, etc., to form part of Act.

SCHEDULE A.

FORM OF CONVEYANCE UNDER SECTION 2.

This Indenture made the _____ day of _____, one thousand eight hundred and _____ in pursuance of *The Act respecting Short Forms of Conveyances*, Between (here insert names of parties and recitals, if any,) Witnesseth, that in consideration of _____ dollars, of lawful money of Canada, now paid by the said (grantee) to the said (grantor) the receipt whereof is hereby by him acknowledged,) he the said (grantor) doth grant unto the said (grantee) in fee simple (or otherwise as the case may be) all, etc., (parcels)
(Here insert covenants, or any other provisions.)

In witness whereof, the said parties hereto have hereunto set their hands and seals.

R. S. O. 1877, c. 102, Sched. A.

SCHEDULE B.

(Section 2.)

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule, may substitute for the words "Covenantor" or "Covantee," or "Re-leasor" or "Releasee," "Grantor" or "Grantee," any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this Schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3 Such parties may introduce into, or annex to, any of the forms in the first column, any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words, at the end of form two, of the first column, so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever: and in every such case the covenants two, three and four, or such of them as may be employed in such deed, shall be taken to extend to the acts of the person or persons, class or classes of persons, so named.

FORMS OF COVENANTS.

COLUMN ONE.

1. The said (*covenantor*) covenants with the said (*covenantee*).

2. That he has the right to convey the said lands to the said (*covenantee*) notwithstanding any act of the said (*covenantor*).

3. And that the said (*covenantee*) shall have quiet possession of the said lands.

4. Free from all incumbrances.

COLUMN TWO.

1. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said covenantee, his heirs, executors, administrators and assigns, in manner following, that is to say:

2. That for and notwithstanding any act, deed, matter or thing by the said covenantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said covenantor, now hath in himself good right, full power, and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said covenantee, in manner aforesaid, and according to the true intent of these presents.

3. And that it shall be lawful for the said covenantee, his heirs, executors, administrators and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said land and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof, to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said covenantor, or his heirs, or any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

4. And that free and clear, and freely and absolutely acquitted, exonerated and for ever discharged, or otherwise by the said covenantor or his heirs well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and

COLUMN ONE.

COLUMN TWO.

every other estate, title, charge, trouble and incumbrance whatsoever, made, executed, occasioned or suffered by the said covenantor or his heirs, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

5. And the said (covenantor) covenants with the said (covenantee) that he will execute such further assurances of the said lands as may be requisite.

5. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise, and agree with and to the said covenantee, his heirs, executors, administrators and assigns, that he the said covenantor, his heirs, executors and administrators, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said covenantee, his heirs, executors, administrators or assigns, make, do, execute, or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said covenantee, his heirs, executors, administrators and assigns, in manner aforesaid as by the said covenantee, his heirs, executors, administrators and assigns, his or their counsel in the law, shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors or administrators only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said (covenantor) covenants with the said (covenantee) that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said (covenantee).

6. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said covenantee, his heirs, executors, administrators and assigns, that the said covenantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said covenantee, his heirs, executors, administrators or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of

COLUMN ONE.

COLUMN TWO.

the estate, title and possession of the said covenantee, his heirs, executors, administrators and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said covenantee, his heirs, executors, administrators and assigns, or such person as he or they shall for that purpose direct and appoint.

7. And the said *(covenantor)* covenants with the said *(covenantee)* that he has done no act to incumber the said lands.

7. And the said covenantor, for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree, with and to the said covenantee, his heirs, executors, administrators and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof are, is, or shall or may be in anywise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

8. And the said *(releasor)* releases to the said *(releasee)* all his claims upon the said lands.

8. And the said releasor hath released, remised and for ever quitted claim, and by these presents doth release, remise and for ever quit claim, unto the said releasee, his heirs, executors, administrators and assigns, all, and all manner of right, title, interest, claim and demand whatsoever, in, to and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators or assigns shall nor may, at any time hereafter, have claim, pretend to, challenge or demand the said lands and premises or any part thereof, in any manner howsoever, but the said releasee, his heirs, executors, administrators and assigns, and the same lands and premises shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said releasor might or could have upon him in respect of the said lands, or upon the said lands.

9. And the said *(A.B.)* wife of the said *(grantor)* hereby bars her dower in the said lands.

9. And the said *(A.B.)* wife of the said grantor, for and in consideration of the sum of dollars of lawful money of Canada, to her in hand paid by the said grantee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said grantee, his heirs, executors, administrators and assigns, all her dower and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to or out of the lands and premises hereby conveyed or intended so to be.

CHAPTER 106.

An Act respecting Short Forms of Leases.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Where a deed made according to the form set forth in Schedule A, annexed to this Act, or any other deed expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in column one of Schedule B, hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if it contained the form of words contained in column two of said Schedule B, and distinguished by the same number as is annexed to the form of words used in the deed ; but it shall not be necessary, in any such deed, to insert any such number. R. S. O. 1877, c. 103, s. 1.

Where words of column 1 of Schedule B are employed, the deed to have the same effect as if the words in column 2 were inserted.

2. Any deed or part of a deed which fails to take effect by virtue of this Act, shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been made. R. S. O. 1877, c. 103, s. 2.

Deeds failing to take effect under this Act to be as valid as if Act not made.

3. Every deed, unless an exception is specially made therein, shall be held and construed to include all out-houses, buildings, barns, stables, yards, gardens, cellars, ancient and other lights, paths, passages, ways, waters, watercourses, liberties, privileges, easements, profits, commodities, emoluments, hereditaments, and appurtenances whatsoever, to the lands and tenements therein comprised belonging or in any wise appertaining. R. S. O. 1877, c. 103, s. 3.

Deed to include houses, etc.

4. Unless the contrary is expressly stated in the lease, all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act made after the 25th March, 1886, shall run with the land demised, and shall bind the heirs, executors, administrators, and assigns of the lessee, whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B to this Act shall, when inserted in a lease, apply to a breach of either an affirmative or negative covenant. 49 V. c. 21, s. 1.

Covenants to run with land.

SCHEDULE A.

(Section 1.)

FORM OF LEASE.

This indenture, made the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, in pursuance of *The Act respecting Short Forms of Leases*, between _____, of the first part, and _____, of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the said party (or parties) of the second part, his (or their) executors, administrators and assigns, to be paid, observed and performed, he (or they) the said party (or parties) of the first part hath (or have) demised and leased, and by these presents do (or doth) demise and lease unto the said party (or parties) of the second part, his (or their) executors, administrators and assigns, all that messuage or tenement situate (or all that parcel or tract of land situate), lying and being (*here insert a description of the premises with sufficient certainty.*)

To have and to hold the said demised premises for and during the term of _____, to be computed from the _____ day of _____ one thousand eight hundred and _____, and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term hereby granted unto the said party (or parties) of the first part, his (or their) heirs, executors, administrators or assigns, the sum of _____ to be payable on the following days and times, that is to say (on, etc.), the first of such payments to become due and be made on the _____ day of _____ next.

R. S. O. 1877, c. 103, Sched. A.

SCHEDULE B.

(Section 1.)

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule, may substitute for the words "Lessee" or "Lessor" any name or names (or other designation) and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular in the forms in the first column of this Schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Where the premises demised are of freehold tenure, the covenants 1 to 8 shall be taken to be made with, and the proviso 9 to apply to the heirs and assigns of the lessor; and where the premises demised are of leasehold tenure, the covenants and proviso shall be taken to be made with, and apply to the lessor, his executors, administrators and assigns.

5. Unless the contrary is expressly stated in the lease in all leases made after the 25th day of March, 1886, the extended form of covenant numbered 7 shall be read as containing after the word "lessee" in the first line thereof the words "his executors, administrators and assigns."

FORMS OF COVENANTS.

COLUMN ONE.

COLUMN TWO.

1. That the said (lessee) covenants with the said (lessor) to pay rent.

1. And the said lessee doth hereby for himself, his heirs, executors, administrators and assigns, covenant with the said lessor that he, the said lessee, his executors, administrators and assigns, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

2. And to pay taxes.

2. And also will pay all taxes, rates, duties, and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof.

3. And to repair.

3. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made, when, where, and so often as need shall be.

4. And to keep up fences.

4. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year.

5. And not to cut down timber.

5. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees, except for necessary repairs, or firewood, or for the purpose of clearance as herein set forth.

6. And that the said (lessor) may enter and view state of repair, and that the said (lessee) will repair according to notice.

6. And it is hereby agreed that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee, his executors, administrators and assigns will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly.

COLUMN ONE.

COLUMN TWO.

7. And will not assign or sub-let without leave.

8. And that he will leave the premises in good repair.

9. Proviso for re-entry by the said (*lessor*) on non-payment of rent or non-performance of covenants.

10. The said (*lessor*) covenants with the said (*lessee*) for quiet enjoyment.

7. And also that the lessee shall not, nor will during the said term, assign, transfer or set over, or otherwise; by any act or deed procure the said premises or any of them to be assigned, transferred set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor, his heirs or assigns, first had and obtained.

8. And further, the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised, with the appurtenances, together with all buildings, erections and fixtures thereon, in good and substantial repair and condition, reasonable wear and tear and damage by fire only excepted.

9. Provided always, and it is hereby expressly agreed, that if the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, his executors, administrators or assigns, then and in either of such cases it shall be lawful for the lessor at any time hereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, re-possess and enjoy, as of his or their former estate; anything hereinafter contained to the contrary notwithstanding.

10. And the lessor doth hereby for himself, his heirs, executors, administrators and assigns, covenant with the lessee, his executors, administrators and assigns, that he and they paying the rent hereby reserved, and performing the covenants hereinbefore on his and their part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, his heirs, executors, administrators and assigns, or any other person or persons lawfully claiming by, from or under him, them or any of them.

R. S. O. 1877, c. 103, Sched. B ;

49 V. c. 21, s. 2.

CHAPTER 107.

An Act respecting Short Forms of Mortgages.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where the words following occur in this Act or in the Schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intendment appears: Interpretation.

1. "Lands" shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein respectively; "Lands."

2. "Party" shall mean and include any body politic or corporate as well as an individual. R. S. O. 1877, c. 104, s. 1. "Party."

2. Where a mortgage of real property in Ontario, made according to the form set forth in Schedule A, annexed to this Act, or any other such mortgage expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in column one of Schedule B, to this Act, and distinguished by any number therein, such mortgage shall be taken to have the same effect, and be construed as if it contained the form of words contained in column two of said Schedule B, and distinguished by the same number as is annexed to the form of words used in such mortgage; but it shall not be necessary in any such mortgage to insert any such number. R. S. O. 1877, c. 104, s. 2. Where words of column one of Schedule B are employed, the mortgage to have the same effect as if the words in column two were inserted.

3. Any such mortgage or part of such mortgage which fails to take effect by virtue of this Act, shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been made. R. S. O. 1877, c. 104, s. 3. Mortgages not taking effect under this Act how far valid.

4. Every such mortgage, unless an exception is specially made therein, shall be held and construed to include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, under-woods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands therein comprised be- Mortgage to include all houses, etc., and the reversion and all the estate, etc., of the grantor.

longing, or in anywise appertaining, or with the same demised, held, used, occupied and enjoyed, or taken or known as part or parcel thereof, and if the same purports to convey an estate in fee, also the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits of the same lands, and of every part and parcel thereof; and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever of the grantor in, to, out of or upon the same lands and every part and parcel thereof, with their and every of their appurtenances, subject always to the reservations, limitations, provisoes and conditions contained in the grant of such lands from the Crown. R. S. O. 1877, c. 104, s. 4.

Schedules,
etc., to form
part of Act.

5. The schedules hereto, and the directions and forms therein contained, shall be deemed parts of this Act. R. S. O. 1877, c. 104, s. 6.

SCHEDULE A.

(Section 2.)

FORM OF MORTGAGE.

This Indenture, made the day of , one thousand eight hundred and , in pursuance of *The Act respecting Short Forms of Mortgages*, between (*here insert the names of parties and recitals, if any*), witnesseth, that in consideration of of lawful money of Canada, now paid by the said (mortgagee or mortgagees) to the said (mortgagor or mortgagors), the receipt whereof is hereby acknowledged, the said mortgagor or mortgagors doth (or do) grant and mortgage unto the said mortgagee or mortgagees, his (her or their) heirs, executors, administrators and assigns for ever, all (*parcels*).

(*Here insert provisoes, covenants or other provisions*).

In witness whereof the said parties hereto have hereunto set their hands and seals.

R. S. O. 1877, c. 104, Schedule A.

SCHEDULE B.

(Section 2.)

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule may substitute for the words "Mortgagor" or "Mortgagors," or "Mortgagee" or "Mortgagees," any name or names; and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this Schedule ; and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into, or annex to any of the forms in the first column, any express exceptions from or other express qualifications thereof respectively ; and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

FORMS OF COVENANTS, ETC.

COLUMN ONE.

COLUMN TWO.

1. And the said (A.B.) wife of the said mortgagor hereby bars her dower in the said lands.

1. And the said (A.B.) wife of the said mortgagor for and in consideration of the sum of lawful money of Canada, to her in hand paid by, the said mortgagee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators and assigns, all her dower, and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.

2. Provided: This mortgage to be void on payment of (*amount of principal money*) of lawful money of Canada, with interest at (*rate of interest*) per cent. as follows: (*terms of payment of principal and interest*) and taxes and performance of statute labour.

2. Provided always, and these presents are upon this express condition, that if the said mortgagor, his heirs, executors, administrators or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the just and full sum of (*amount of principal money*) of lawful money of Canada, with interest thereon, at the rate of (*rate of interest*) per cent. per annum, on the days and times, and in manner following—that is to say (*terms of payment of principal and interest*), without any deduction, defalcation or abatement out of the same for or in respect of any taxes, rates, levies, charges, rents, assessments, statute labour or other impositions whatsoever already rated, charged, assessed or imposed, or hereafter to be rated, charged, assessed or imposed by authority of Parliament or of the Legislature, or otherwise howsoever, on the said lands and tenements, hereditaments and premises, with the appurtenances, or on the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said premises, or of the said money or interest, or any other matter or thing relating to these presents, and until such default as aforesaid shall and will well and truly pay, do and perform or cause or procure to be paid, done and performed, all matters and things in this proviso hereinbefore set forth, then these presents and everything in the same contained shall be absolutely null and void.

COLUMN ONE.

COLUMN TWO.

3. The said mortgagor covenants with the said mortgagee.

4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.

5. That the mortgagor has a good title in fee simple to the said lands.

6. And that he has the right to convey the said lands to the said mortgagee.

7. And that on default the mortgagee shall have quiet possession of the said lands.

3. And the said mortgagor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators and assigns, in manner following, that is to say :

4. That the said mortgagor, his heirs, executors, administrators or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his heirs, executors, administrators or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seised of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances, and of and in every part and parcel thereof, without any manner of trusts, reservations, limitations, provisoes or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, incumber or defeat the same.

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators and assigns, peaceably and quietly to enter into, have, hold, use,

COLUMN ONE.

COLUMN TWO.

occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs or assigns, or any other person or persons whomsoever.

8. Free from all incumbrances.

8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, judgments, executions and recognizances, and of and from all manner of other charges or incumbrances whatsoever.

9. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs and assigns, and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators and assigns, as by the said mortgagee his heirs and assigns or his or their counsel learned in the law, shall or may be lawfully and reasonably devised, advised or required, so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

10. And also that the said mortgagor will produce the ti-

10. And also, that the said mortgagor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request and proper

COLUMN ONE.

COLUMN TWO.

the deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

costs and charges in the law of the said mortgagee his heirs, executors, administrators or assigns, at any trial or hearing in any action, or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators and assigns, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs and assigns.

11. And that the said mortgagor has done no act to incumber the said lands.

11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than currency.

12. And also that the said mortgagor or his heirs shall and will forthwith insure, unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators or assigns, the policy or policies of assurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

COLUMN ONE.

COLUMN TWO.

13. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

13. And the said mortgagor hath released, remised and for ever quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof, so as that neither the said mortgagor, his heirs, executors, administrators or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises, or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided, that the said mortgagee on default of payment for months, may on notice enter on and lease or sell the said lands.

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in any payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and calendar month shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators or assigns, after giving written notice to the said mortgagor, his heirs or assigns, of his intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than previous, without any further consent or concurrence of the said mortgagor, his heirs or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he shall think fit, and also to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction

COLUMN ONE.

COLUMN TWO.

or private contract, or partly by public auction and partly by private contract, as to him shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his heirs and assigns, or as he, she or they shall direct and appoint, and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid, unless the same shall happen by reason of his wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators or assigns, shall bear, sustain, or be put to for taxes, rent, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be, or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid, upon this further trust that the said mortgagee, his heirs, executors, administrators or assigns, do and shall pay the surplus, if any, to the said mortgagor, his executors, administrators or assigns, or as he shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs or assigns, convey and assure unto the said mortgagor, his heirs or assigns, or to such person or persons as he shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and incumbrance whatsoever by the said mortgagee, his heirs, executors, administrators or assigns, in the meantime, so as no person who shall be required to

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make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode ; Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagee, his heirs, executors, administrators or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.

15. Provided that the mortgagee may distrain for arrears of interest.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and, by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.

16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned, or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects, to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered, or within such time as, by the practice of the High Court, relief therein could be obtained, be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

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17. Provided that 17. And provided also, and it is hereby further
 until default of pay- expressly declared and agreed by and between the
 ment the mortgagor parties to these presents, that until default shall
 shall have quiet happen to be made of or in the payment of the said
 possession of the sum of money hereby secured or mentioned, or
 said lands. intended so to be, or the interest thereof, or any
 part of either of the same, or the doing, observing,

performing, fulfilling or keeping some one or more
 of the provisions, agreements or stipulations herein
 set forth, contrary to the true intent and meaning
 of these presents, it shall and may be lawful to and
 for the said mortgagor, his heirs and assigns,
 peaceably and quietly to have, hold, use, occupy,
 possess and enjoy the said lands, tenements, here-
 ditaments and premises hereby conveyed or men-
 tioned, or intended so to be, with their and every
 of their appurtenances, and receive and take the
 rents, issues and profits thereof to his own use and
 benefit, without let, suit, hindrance, interruption,
 or denial of or by the said mortgagee, his heirs,
 executors, administrators or assigns, or of or by
 any other person or persons whomsoever lawfully
 claiming, or who shall, or may lawfully claim by,
 from, under or in trust for him, her, them or any
 or either of them.

R. S. O. 1877, c. 104, Schedule B.

2. *INTESTATE SUCCESSION.*

CHAP. 108.—DEVOLUTION OF ESTATES, p. 975.

CHAPTER 108.

An Act respecting the Devolution of Real Estate.

SHORT TITLE, s. 1.	PERSONAL REPRESENTATIVES TO BE
APPLICATION OF SECTS. 3-10, ss. 2, 3.	DEEMED IN LAW HEIRS AND AS-
PROPERTY TO DEVOLVE ON PERSONAL	SIGNS, s. 10.
REPRESENTATIVE, s. 4.	INTERPRETATION OF TERMS IN SECS.
DISTRIBUTION OF PROPERTY OF MAR-	12-26, s. 11.
RIED WOMAN DYING INTESTATE,	DESCENTS BEFORE 1ST JULY, 1834,
s. 5.	s. 12.
DISTRIBUTION OF ESTATE OF PERSON	DESCENTS SINCE 1ST JULY, 1834, ss.
DYING INTESTATE AND WITHOUT	13-20.
ISSUE, s. 6.	DESCENTS BETWEEN 1ST JULY, 1834,
APPLICATION OF PROPERTY IN PAY-	AND 1ST JANUARY, 1852, ss.
MENT OF DEBTS, s. 7.	21-26.
SALES OF INFANTS' ESTATE, s. 8.	DESCENTS SINCE 1ST JANUARY, 1852,
POWER OF PERSONAL REPRESENTA-	ss. 27-57.
TIVE OVER REAL PROPERTY, s. 9.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Devolution of Estates Act.*" Short title. 49 V. c. 22, s. 1.

2. Sections 3 to 10 inclusive of this Act shall apply only to the estates of persons dying on and after the 1st day of July, 1886. 49 V. c. 22, s. 2.

3. Subject as above this and the next seven sections of this Act shall apply:—

(a) To all estates of inheritance in fee simple, or limited to the heir as special occupant, in any tenements or hereditaments in Ontario, whether corporeal or incorporeal.

Application of ss. 3-10.
Estates to which ss. 3-10 apply.

(b) To chattels real in Ontario.

(c) To all other personal property of any person who has died domiciled in Ontario.

Provided, that all real or personal property comprised in any disposition made by will in exercise of a general testamentary power of appointment shall be deemed to be within the provisions of this section, if otherwise applicable. 49 V. c. 22, s. 3.

Property to devolve on personal representative.

4.—(1) All such property as aforesaid which is vested in any person, or is comprised in any such disposition as aforesaid made by him, shall on his death, notwithstanding any testamentary disposition, devolve upon and become vested in his legal personal representatives from time to time, and subject to the payment of his debts; and so far as the said property is not disposed of by deed, will, contract or other effectual disposition, the same shall be distributed as personal property not so disposed of is hereafter to be distributed.

Saving as to dower.

(2) Nothing in this Act shall be construed to take away a widow's right to dower; but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this section in her husband's undisposed of real estate, in lieu of all claims to dower in respect of real estate of which her husband was at any time seised, or to which at the time of his death he was beneficially entitled; and unless she so elects she shall not be entitled to share under this section in the undisposed of real estate aforesaid.

Saving as to husband's interest in property of wife.

(3) Any husband who, if sections 3 to 9 of this Act had not passed, would be entitled to an interest as tenant by the curtesy in any real estate of his wife, may by deed or instrument in writing executed within six months after his wife's death, and attested by at least one witness, elect to take such interest in the real and personal property of his deceased wife as he would have taken if the said sections of this Act had not passed, in which case the husband's interest therein shall be ascertained in all respects as if the said sections had not passed, and he shall be entitled to no further interest under the said sections of this Act.

Administrators to give security.

(4) Where any person applies to be appointed an administrator, and the administration applied for is a general administration, the application and the affidavit in support thereof shall shew the particulars of the real estate of the deceased; and the value or probable value thereof, and the amount of the security to be given, shall have reference to such value as well as to the value of the other estate of the deceased. 49 V. c. 22 s. 4 (1-4).

5. The real and personal property of a married woman in respect of which she has died intestate, shall be distributed as follows: one-third to her husband if she leave issue, and one-half if she leave none; and subject thereto, shall go and devolve as if her husband had pre-deceased her. 49 V. c. 22, s. 5.

Distribution of property of married woman dying intestate.

6. When a person shall die without leaving issue, and intestate as to the whole or any part of his real or personal property, his father surviving shall not be entitled to any greater share under the intestacy than his mother or any brother or sister surviving; nor shall a grandfather or grandmother of a person dying intestate share in competition with a surviving father, mother, brother or sister. 49 V. c. 22, s. 6.

Distribution of estate of person dying intestate and without issue.

7. The real and personal property of a deceased person comprised in any residuary devise or bequest shall (except so far as a contrary intention shall appear from his will or any codicil thereto) be applicable ratably, according to their respective values, to the payment of his debts. 49 V. c. 22, s. 7.

Application of property in payment of debts.

8.—(1) Where infants are concerned in real estate which but for the preceding sections of this Act would not devolve on executors or administrators, no sale or conveyance shall be valid under this Act without the written consent or approval of the Official Guardian of infants appointed under *The Judicature Act*, or in the absence of such consent or approval without an order of the High Court.

Sales of infants' estate.

(2) The High Court may appoint the Local Judge of any county or the Local Master therein, as Local Guardian of Infants, in such county during the pleasure of the Court, with authority to give such written consent or approval as aforesaid instead of the Official Guardian; and the Official Guardian and Local Guardian shall be subject to such general orders as the High Court may from time to time make in regard to their authority and duty under this Act. 49 V. c. 22, s. 8.

Local guardians in out counties.

9. Subject as hereinbefore provided, the legal personal representatives from time to time of a deceased person shall have power to dispose of and otherwise deal with all real property vested in them by virtue of the preceding sections of this Act, with all the like incidents, but subject to all the like rights, equities, and obligations, as if the same were personal property vested in them. 49 V. c. 22, s. 9.

Power of personal representatives over real property.

10. In the case of a person dying after the 1st day of July, 1886, his personal representative for the time being shall, in the interpretation of any Statute of this Province, or in the construction of any instrument to which the deceased was a party, or in which he was interested, be deemed in law his heirs and assigns, unless a contrary intention appears. 50 V. c. 7, s. 35.

Personal representatives to be deemed in law heirs and assigns.

Interpreta-
tion.

11. The words and expressions hereinafter mentioned which in their ordinary signification have a more confined or a different meaning, shall, where they occur in the next fifteen sections, numbered from 12 to 26 inclusive, except where the nature of the provision or the context thereof excludes such construction, be interpreted as follows, that is to say :

“Land.”

1. “Land” shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal, and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties, or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency ;

“Purchaser.”

2 “The purchaser” shall mean the person who last acquired the land otherwise than by descent or than by any partition, by the effect of which the land becomes part of or descendible in the same manner as other land acquired by descent ;

“Descent.”

3. “Descent” shall mean the title to inherit land by reason of consanguinity, as well where the heir is an ancestor or collateral relation, as where he is a child or other issue ;

“Descendants of any ancestor.”

4. “Descendants of any ancestor” shall extend to all persons who must trace their descent through such ancestor ;

“Person last entitled to land.”

5. “The person last entitled to land” shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof

“Assurance.”

6. “Assurance” shall mean any deed or instrument (other than a will), by which any land may be conveyed or transferred at law or in equity ;

“Rent.”

7. “Rent” shall extend to all annuities and periodical sums of money charged upon or payable out of any land ; and

“Person through whom another person is said to claim.”

8. “Person through whom another person is said to claim” shall mean any person by, through or under, or by the act of whom the person so claiming, becomes entitled to the estate or interest claimed, as heir, issue in tail, tenant by the curtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee or otherwise. R. S. O. 1877, c. 105, s. 2.

DESCENTS BEFORE 1ST JULY, 1834.

Descents before 1 July, 1834, to be as at Common Law.

12. This Act shall not extend to any descent which took place on the death of any person who died before the first day of July, 1834. R. S. O. 1877, c. 105, s. 3.

DESCENTS SINCE 1ST JULY, 1834.

13. The seven next sections of this Act, numbered from 14 to 20 inclusive, shall not have operation retrospectively to a period of time anterior to the sixth day of March, 1834, so as, by force of any of their provisions, to render any title valid, which in regard to any particular estate had, prior to that day, been adjudged, or has been or may be in any suit which was depending on that day, adjudged invalid on account of any defect, imperfection, matter or thing which is by such sections altered, supplied or remedied; but in every such case the law in regard to any such defect, imperfection, matter or thing, shall, as applied to such title, be deemed and taken to be as if those sections of this Act had not been passed. R. S. O. 1877, c. 105, s. 4.

The next seven sections not to operate retrospectively in certain cases.

14. In every case on and after the first day of July, 1834 descent shall be traced from the purchaser; and to the intent that the pedigree may never be carried further back than the circumstances of the case and the nature of the title require, the person last entitled to the land shall for the purposes of this Act be considered to have been the purchaser thereof, unless it is proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the purchaser, unless it is proved that he inherited the same; and, in like manner, the last person from whom the land is proved to have been inherited shall in every case be considered to have been the purchaser, unless it is proved that he inherited the same. R. S. O. 1877, c. 105, s. 5.

Descent shall always be traced from the purchaser, etc.

Imp. Act, 3-4 W. iv. c. 106, s. 2.

15. Where land is devised by a testator dying after the first day of July, 1834, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee and not by descent; and where any land is limited by any assurance, executed after the said first day of July, 1834, to the person or to the heirs of the person who thereby conveys the same land, such person shall be considered to have acquired the same as a purchaser, by virtue of such assurance, and shall not be considered to be entitled thereto as of his former estate or part thereof. R. S. O. 1877, c. 105, s. 6.

Heir entitled under a will shall take as devisee, and a limitation to the grantor or his heir shall create an estate by purchase.

Imp. Act, 3-4 W. iv. c. 106, s. 3.

16. Where a person acquires land by purchase, under a limitation to the heirs, or to the heirs of the body of any of his ancestors, contained in an assurance executed after the first day of July, 1834, or under a limitation to the heirs, or to the heirs of the body of any of his ancestors, or under any limitation having the same effect, contained in a will of any testator dying after the said first day of July, 1834, then and in any of such cases, such land shall descend, and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land. R. S. O. 1877, c. 105, s. 7.

Where heirs take by purchase under limitations to the heirs of their ancestor the land shall descend, as if the ancestor had been the purchaser.

Imp. Act, 3-4 W. iv. c. 106, s. 4.

After the death of a person attainted, his descendants may inherit.

Imp. Act, 3-4 W. iv. c. 106, s. 10.

17. Where the person from whom the descent of any land is to be traced has had any relation who, having been attainted, died before such descent took place, then such attainer shall not prevent any person from inheriting such land who would have been capable of inheriting the same by tracing his descent through such relation if he had not been attainted, unless such land escheated in consequence of such attainder before the first day of July, 1834. R. S. O. 1877, c. 105, s. 8.

Heir-at-law need not prove entry.

18. Proof of entry by the heir after the death of the ancestor shall in no case be necessary in order to prove title in such heir, or in any person claiming by or through him. R. S. O. 1877, c. 105, s. 9.

Limitations made before 1st July, 1834, to the heirs of a person then living, shall take effect as if this Act had not been passed.

Imp. Act, 3-4 W. iv. c. 106, s. 12.

9. Where any assurance executed before the said first day of July, 1834, or the will of any person who died before that day, contains any limitation or gift to the heir or heirs of any person under which the person or persons answering the description of heir is entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this Act had not been passed shall become entitled by virtue of such limitation or gift, whether the person named as ancestor was or was not living on or after the said first day of July, 1834. R. S. O. 1877, c. 105, s. 10.

Grantees, devisees, etc., shall not take as joint-tenants unless such intention be expressed.

20. Where by any letters patent, assurance or will, made and executed after the first day of July, 1834, land has been or is granted, conveyed or devised to two or more persons other than executors or trustees in fee simple, or for any less estate, it shall be considered that such persons took or take as tenants in common, and not as joint tenants, unless an intention sufficiently appears on the face of such letters patent, assurance or will, that they are to take as joint tenants. R. S. O. 1877, c. 105, s. 11.

DESCENTS BETWEEN 1ST JULY, 1834, AND 1ST JANUARY, 1852.

Descents between the 1st July, 1834, and 31st December, 1851.

21. As respects every descent between the first day of July, 1834, and the thirty-first day of December, 1851, both days included, and as respects any descent not included or provided for in the sections of this Act numbered from 31 to 57, both included, the following sections, numbered from 22 to 26, both included, shall apply retrospectively to the first day of July, 1834, and also prospectively, as the case may be, and shall be construed as if the same had been passed on the said first day of July, 1834. R. S. O. 1877, c. 105, s. 12.

Brothers and sisters shall trace descent through parents. Imp. Act, s. 5.

22. No brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent. R. S. O. 1877, c. 105, s. 13.

23. Every lineal ancestor shall be capable of being heir to any of his issue, and in any case where there is no issue of the purchaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor; so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue. R. S. O. 1877, c. 105, s. 14.

Lineal ancestor to be heir in preference to collateral persons claiming through him.

Imp. Act, 3-4 W. iv. c. 106, s. 6.

24. None of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants have failed; and no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants have failed; and no female maternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male maternal ancestors and their descendants have failed. R. S. O. 1877, c. 105, s. 15.

The male line to be preferred.

Imp. Act, 3-4 W. iv. c. 106, s. 7.

25. Where there is a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and where there is a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male maternal ancestor and her descendants. R. S. O. 1877, c. 105, s. 16.

The mother of the more remote male ancestor to be preferred to the mother of a less remote male ancestor.

Imp. Act, 3-4 W. iv. c. 106, s. 8.

26. Any person related to the person from whom the descent is to be traced by the half blood, shall be capable of being his heir, and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood and his issue, where the common ancestor is a male, and next after the common ancestor where such common ancestor is a female; so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother. R. S. O. 1877, c. 105, s. 17.

Half blood to inherit after the whole blood of the same degree.

Imp. Act, 3-4 W. iv. c. 106, s. 9.

DESCENTS ON AND AFTER 1ST OF JANUARY, 1852.

27. The twenty-seven sections numbered from 31 to 57, both included, shall apply retrospectively to the first day of January, 1852 inclusive, and also prospectively, as the case

Descents since the 1st January, 1852.

may be, and shall be construed as if the same had been passed on the said first day of January, 1852, and shall not apply to estates of persons dying on or after the 1st day of July, 1886. R. S. O. 1877, c. 105, s. 18.

28. In the said twenty-seven sections of this Act numbered from 31 to 57, both inclusive—

“Real estate.” 1. “Real estate” shall be construed to include every estate, interest and right, legal and equitable, held in fee simple or for the life of another (except as in section 49 is excepted) in lands, tenements and hereditaments in Ontario, but not such as are determined or extinguished by the death of the intestate seised or possessed thereof, or so otherwise entitled thereto, nor to leases for years; and

“Inheritance.” 2. “Inheritance,” as therein used, shall be understood to mean real estate as herein defined, descended or succeeded to, according to the provisions of the said twenty-seven sections. R. S. O. 1877, c. 105, s. 19.

29. Where, in the said sections, numbered from 31 to 57 both included, any person is described as living, it shall be understood that he was living at the time of the death of the intestate from whom the descent or succession came, and where any person is described as having died, it shall be understood that he died before such intestate. R. S. O. 1877, c. 105, s. 20.

30. Where in any of the said sections the expressions “where the estate came to the intestate on the part of the father” or “mother,” as the case may be, are used, the same shall be construed to include every case where the inheritance came to the intestate by devise, gift or descent from the parent referred to, or from any relative of the blood of such parent. R. S. O. 1877, c. 105, s. 21.

31. Where any person dies seised in fee simple or for the life of another of any real estate in Ontario, without having lawfully devised the same, such real estate shall descend or pass by way of succession in manner following, that is to say:—

Firstly. To his lineal descendants, and those claiming by or under them, *per stirpes*;

Secondly. To his father;

Thirdly. To his mother; and

Fourthly. To his collateral relatives

subject in all cases to the rules and regulations hereinafter prescribed. R. S. O. 1877, c. 105, s. 22.

32. If the intestate leaves several descendants in the direct line of lineal descent, and all of equal degree of consanguinity

to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate the common degree of consanguinity may be. R. S. O. 1877, c. 105, s. 23.

33. If one or more of the children of such intestate are living and one or more are dead, the inheritance shall descend to the children who are living, and to the descendants of such children as have died; so that each child who is living shall inherit such share as would have descended to him if all the children of the intestate, who have died leaving issue, had been living; and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living. R. S. O. 1877, c. 105, s. 24.

If some children be living and others dead leaving issue.

34. The rule of descent prescribed in the last preceding section shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, are of unequal degrees of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died, shall respectively take the shares which their parents, if living, would have received. R. S. O. 1877, c. 105, s. 25.

Same rule as to other descendants in unequal degrees of consanguinity.

35. In case the intestate dies without lawful descendants and leaving a father, then the inheritance shall go to such father, unless the inheritance came to the intestate on the part of his mother, and such mother is living; and if such mother is dead, the inheritance descending on her part shall go to the father for life, and the reversion to the brothers and sisters of the intestate and their descendants, according to the law of inheritance by collateral relatives hereinafter provided; and if there are no such brothers or sisters, or their descendants living, such inheritance shall descend to the father. R. S. O. 1877, c. 105, s. 26.

If the intestate leaves no descendants in right of father, mother, etc.

36. If the intestate dies without descendants and leaving no father, or leaving a father not entitled to take the inheritance under the last preceding section, and leaving a mother and brothers or sisters, or the descendants of brothers or sisters, then the inheritance shall descend to the mother during her life, and the reversion to such brothers or sisters of the intestate, as are living, and the descendants of such as are dead, according to the same law of inheritance hereinafter provided; and if the intestate in such case leaves no brother or sister, nor any descendant of any brother or sister, the inheritance shall descend to the mother. R. S. O. 1877, c. 105, s. 27.

If there be no father entitled to inherit.

37. If there is no father or mother capable of inheriting the estate, it shall descend in the cases hereinafter specified to the collateral relatives of the intestate; and if there are several ther.

And if there is neither father nor mother.

of such relatives all of equal degree of consanguinity to the intestate, the inheritance shall descend to them in equal parts, however remote from the intestate the common degree of consanguinity may be. R. S. O. 1877, c. 105, s. 28.

Succession of brothers and sisters and their descendants.

38. If all the brothers and sisters of the intestate are living, the inheritance shall descend to such brothers and sisters; and if any one or more of them are living and any one or more are dead, then to the brothers and sisters and every of them who are living, and to the descendants of such brothers and sisters as have died, so that each brother or sister who is living shall inherit such share as would have descended to him or her, if all the brothers or sisters of the intestate who have died leaving issue had been living, and so that such descendants shall inherit in equal shares the share which their parent, if living, would have received. R. S. O. 1877, c. 105, s. 29.

As to such descendants in unequal degrees.

39. The same law of inheritance prescribed in the last section shall prevail as to the other direct lineal descendants of every brother and sister of the intestate, to the remotest degree, wherever such descendants are of unequal degree. R. S. O. 1877, c. 105, s. 30.

If there be no heir under the preceding 13 sections.

40. If there is no heir entitled to take under any of the preceding thirteen sections, the inheritance if the same came to the intestate on the part of his father, shall descend:

Firstly. To the brothers and sisters of the father of the intestate in equal shares, if all are living;

Secondly. If one or more are living, and one or more have died leaving issue, then to such brothers and sisters as are living, and to the descendants of such of the said brothers and sisters as have died—in equal shares;

Thirdly. If all such brothers and sisters have died, then to their descendants; and in all such cases the inheritance shall descend in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate. R. S. O. 1877, c. 105, s. 31.

Further provision.

41. If there be no brothers or sisters, or any of them, of the father of the intestate, and no descendants of such brothers or sisters, then the inheritance shall descend to the brothers and sisters of the mother of the intestate, and to the descendants of such of the said brothers and sisters as have died, or if all have died, then to their descendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the father. R. S. O. 1877, c. 105, s. 32.

Further provision if the estate came on the mother's side.

42. In all cases not provided for by the next preceding fifteen sections, where the inheritance came to the intestate on the part of his mother, the same, instead of descending to the bro-

thers and sisters of the intestate's father, and their descendants, as prescribed in section 40, shall descend to the brothers and sisters of the intestate's mother, and to their descendants, as directed in the last preceding section; and if there are no such brothers and sisters or descendants of them, then the inheritance shall descend to the brothers and sisters, and their descendants, of the intestate's father, as before prescribed. R. S. O. 1877, c. 105, s. 33.

43. In cases where the inheritance did not come to the intestate on the part of either the father or the mother, the inheritance shall descend to the brothers and sisters both of the father and mother of the intestate in equal shares, and to their descendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate. R. S. O. 1877, c. 105, s. 34.

If estate came neither on father's nor mother's side.

44. Relatives of the half blood shall inherit equally with those of the whole blood in the same degree, and the descendants of such relatives shall inherit in the same manner as the descendants of the whole blood, unless the inheritance came to the intestate by descent, devise or gift from some one of his ancestors; in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance. R. S. O. 1877, c. 105, s. 35.

Half blood to succeed with whole blood.

45. On failure of heirs under the preceding rules, the inheritance shall descend to the remaining next of kin of the intestate, according to the rules in the English Statute of Distribution of Personal Estate. R. S. O. 1877, c. 105, s. 36.

In cases not provided for, 22-3 Car. ii. c. 10, and 29 Car. ii. c. 3, to apply.

46. Where there is but one person entitled to inherit according to the provisions of section 27 and following sections of this Act, he shall take and hold the inheritance solely; and where an inheritance, or a share of an inheritance, descends to several persons under such provisions, they shall take as tenants in common, in proportion to their respective rights. R. S. O. 1877, c. 105, s. 37.

Co-heirs to take as tenants in common.

47. Descendants and relatives of the intestate begotten before his death, but born thereafter, shall in all cases inherit in the same manner as if they had been born in the lifetime of the intestate and had survived him. R. S. O. 1877, c. 105, s. 38.

Descendants etc., born after death of intestate, to inherit.

48. Children and relatives who are illegitimate shall not be entitled to inherit under any of the provisions of this Act. R. S. O. 1877, c. 105, s. 39.

Illegitimate persons not to inherit.

49. The estate of the husband as tenant by the curtesy, or of a widow as tenant in dower, shall not be affected by any of the provisions of the last preceding twenty-two sections of this

Curtesy, dower and estates by will or will, excepted.

Act, nor shall the same affect any limitation of any estate by deed or will, or any estate which, although held in fee simple or for the life of another, is so held in trust for any other person, but all such estates shall remain, pass and descend, as if the last twenty-two sections of this Act numbered from 27 to 48, both included had not been passed. R. S. O. 1877, c. 105, s. 40.

Cases of children who have been advanced by settlement, etc.

50. If any child of an intestate has been advanced by the intestate by settlement, or portion of real or personal estate, or both of them, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal estate of such intestate descendible to his heirs, and to be distributed to his next of kin according to law; and if such advancement is equal or superior to the amount of the share which such child would be entitled to receive of the real and personal estate of the deceased, as above reckoned, then such child and his descendants shall be excluded from any share in the real and personal estate of the intestate. R. S. O. 1877, c. 105, s. 41.

If such advancement be not equal.

51. If such advancement is not equal to such share, such child and his descendants shall be entitled to receive so much only of the personal estate, and to inherit so much only of the real estate of the intestate, as is sufficient to make all the shares of the children in such real and personal estate and advancement to be equal, as nearly as can be estimated. R. S. O. 1877, c. 105, s. 42.

Value of property advanced, how estimated.

52. The value of any real or personal estate so advanced shall be deemed to be that, if any, which has been acknowledged by the child by any instrument in writing, otherwise such value shall be estimated according to the value of the property when given. R. S. O. 1877, c. 105, s. 43.

Education, etc., not advancement.

53. The maintaining or educating, or the giving of money to a child, without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R. S. O. 1877, c. 105, s. 44.

As to the purchase by any of the parties interested of real estate subject to partition.

54. The parties authorized to make partition of any such real estate according to law, shall receive from any of the persons entitled to a share of such real estate, an offer or proposition to purchase the share or shares of the other parties interested therein, giving the preference to the person who would have been the heir-at-law thereto, had section 27 and the following sections of this Act not been passed; and next after such heir-at-law, giving such preference to the several persons successively who would have been such heir-at-law, had the said last mentioned sections of this Act not been passed, and

had those persons preceding them respectively in the series of such preference been dead at the time of the death of the intestate. R. S. O. 1877, c. 105, s. 45.

55. The parties so authorized to make such partition shall certify particularly to the Court in which proceedings for a partition are commenced or pending, the particulars of such offer or proposition for purchase, the nature, quantity and value of the estate or share proposed to be purchased, and whether they advise such offer or proposition to be accepted or rejected, and their reasons therefor. R. S. O. 1877, c. 105, s. 46.

Particulars of offer to purchase to be certified to the Court.

56. Any Court authorized to make partition of real estate may direct a sale of the same if it thinks it right so to do, upon the application of any of the parties beneficially interested therein, giving however the preference at all times to the person who would have been the heir-at-law to such real estate had section 27 and the following sections of this Act not been passed, and after such heir-at-law, then giving such preference to the several persons successively who would have been such heir-at-law, had the said last mentioned sections of this Act not been passed, and had those persons preceding them respectively in the series of such preference been dead at the time of the death of the intestate. R. S. O. 1877, c. 105, s. 47.

Any Court authorized to make partition may direct a sale, giving preference to the heir-at-law.

57. Every such preference shall be upon and subject to such terms, security and conditions, as the Court thinks it right to direct. R. S. O. 1877, c. 105, s. 48.

Terms on which preference to be given.

3. WILLS AND EXECUTORS.

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“ 110.—TRUSTEES AND EXECUTORS, p. 998.

CHAPTER 109.

An Act respecting Wills.

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WILLS BEFORE 1ST JANUARY, 1874,
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WILLS AFTER 1ST JANUARY, 1874 :
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able on land, ss. 37, 38.

IMPERIAL ACTS REPEALED, s. 39.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

Short title. 1. This Act may be cited as “*The Wills Act of Ontario.*” R.
S. O. 1877, c. 106, s. 1.

WILLS BEFORE 1ST JANUARY, 1874.

“Land.” 2. In the next succeeding three sections of this Act the
word “land” shall extend to messuages, and all other
hereditaments, whether corporeal or incorporeal, and to
money to be laid out in the purchase of land, and to

chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties, or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency. R. S. O. 1877, c. 106, s. 2.

3. Where a will made before and not re-executed, republished or revived after the first day of January, 1874, by any person dying after the sixth day of March, 1834, contains a devise in any form of words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will shall be valid and effectual to pass any land acquired by the devisor after the making of such will, in the same manner as if the title thereto had been acquired before the making thereof. R. S. O. 1877, c. 106, s. 3.

Estates acquired after the making of a will may pass by the will where such intention is expressed.

4. Where land is devised in any such will as aforesaid, it shall be considered that the devisor intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R. S. O. 1877, c. 106, s. 4.

A devise of land shall be taken to carry as large an estate as the testator had in the land, unless a contrary intention is expressed.

5. Any will affecting land executed after the sixth day of March, 1834, and before the first day of January, 1874, in the presence of and attested by two or more witnesses, shall have the same validity and effect as if executed in the presence of and attested by three witnesses; and it shall be sufficient if the witnesses subscribed their names in presence of each other, although their names were not subscribed in presence of the testator. R. S. O. 1877, c. 106, s. 5.

Witnesses need not subscribe in the presence of the testator.

6. After the fourth day of May, 1859, and before the first day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R. S. O. 1877, c. 106, s. 6.

Will by married woman between 4th May, 1859, and 1st January, 1874.

WILLS AFTER 1ST JANUARY, 1874.

7. Unless herein otherwise expressly provided, the subsequent sections of this Act shall not extend to any will made before the first day of January, 1874; but every will re-

Operation of succeeding sections.

Imp. Act 1 V. c. 26, s. 34. executed or re-published, or revived by any codicil, shall, for the purposes of the said sections, be deemed to have been made at the time at which the same was so re-executed, re-published or revived. R. S. O. 1877, c. 106, s. 7.

Application of sections 20-22, 25 and 26. 8. Sections 20, 21, 22, 25 and 26 of this Act shall not apply to the will of any person who was dead before the first day of January, 1869, but shall apply to the will of every person who has died since the thirty-first day of December, 1868, or who dies after the passing of this Act. R. S. O. 1877, c. 106, s. 8.

Interpretation. Imp. Act 1 V. c. 26, s. 1. 9. In the construction of the sections numbered 10 to 39 inclusive in this Act,

"Will." 1. "Will" shall extend to a testament, and to a codicil, and to an appointment by will, or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of the Act passed in the twelfth year of the reign of King Charles the Second, entitled "*An Act for taking away the Court of Wards, and liveries and tenures in capite, and by knight's service and purveyance, and for settling a revenue upon His Majesty in lieu thereof*," and to any other testamentary disposition;

"Real estate." 2. "Real estate" shall extend to messuages, lands, rents, and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein;

"Personal estate." 3. "Personal estate" shall extend to leasehold estates and other chattels real, and also to moneys, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein;

"Mortgage." 4. "Mortgage" shall include any lien for unpaid purchase money and any charge, incumbrance, or obligation of any nature whatever upon any lands or tenements of a testator or intestate. R. S. O. 1877, c. 106, s. 9.

Power to dispose of all property. Imp. Act 1 V. c. 26, s. 3. 10. Every person may devise, bequeath, or dispose of by will executed in manner hereinafter mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heir at law, or upon his executor or administrator; and the power hereby given shall extend to estates *pur autre vie*, whether there be or be not any special occupant thereof, and whether the same be a corporeal or incorporeal hereditament; and also to all contingent, executory, or other future interests in any real or personal estate, whether the testator be or be not ascertained as the person or one of the persons in whom the same may respec-

tively become vested, and whether he be entitled thereto under the instrument by which the same were respectively created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R. S. O. 1877, c. 106, s. 10.

Rights of entry.

Property acquired after the will.

11. No will made by any person under the age of twenty-one years shall be valid. R. S. O. 1877, c. 106, s. 11.

Wills by infants invalid. Imp. Act 1 V. c. 26, s. 7.

12.—(1) No will shall be valid unless it is in writing, and executed in manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses, shall attest and shall subscribe the will in the presence of the testator; but no form of attestation shall be necessary.

Execution. Imp. Act 1 V. c. 26, s. 9.

Attestation.

(2) Every will, so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, shall be deemed to be valid, within the meaning of this Act, if the signature is so placed, at, or after, or following, or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by such signature to the writing signed as his will; and no such will shall be affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature under this Act shall be operative to give effect to any disposition or direction which is underneath, or which follows it, nor shall it give effect to any disposition or direction inserted after the signature was made. R. S. O. 1877, c. 106, s. 12.

Signature. Imp. Act 15-16 V. c. 24, s. 1.

Appointments
by will how to
be exercised.
Imp. Act 1 V.
c. 26, s. 10.

13. No appointment made by will, in exercise of any power, shall be valid, unless the same is executed in manner hereinbefore required; and every will executed in manner hereinbefore required, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R. S. O. 1877, c. 106, s. 13.

Wills of
personality of
soldiers and
sailors.
Imp. Act 1 V.
c. 26, s. 11.

14. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the passing of this Act. R. S. O. 1877, c. 106, s. 14.

Publication
unnecessary.
Imp. Act 1 V.
c. 26, s. 13.

15. Every will executed in manner hereinbefore required shall be valid without any other publication thereof. R. S. O. 1877, c. 106, s. 15.

Will not
invalid if
witness
incompetent.
Imp. Act 1 V.
c. 26, s. 14.

16. If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid. R. S. O. 1877, c. 106, s. 16.

Gifts, etc., to
witness
invalid.
Imp. Act 1 V.
c. 26, s. 15.

17. If any person attests the execution of any will, to whom, or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts) is thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R. S. O. 1877, c. 106, s. 17.

Creditors
competent
witnesses.
Imp. Act 1 V.
c. 26, s. 16.

18. In case by any will any real or personal estate is charged with any debt or debts, and any creditor, or the wife or husband of any creditor whose debt is so charged attests the execution of such will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof. R. S. O. 1877, c. 106, s. 18.

Executor
competent
witness.
Imp. Act 1 V.
c. 26, s. 17.

19. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof. R. S. O. 1877, c. 106, s. 19.

20. Every will shall be revoked by the marriage of the testator, except a will made in the exercise of a power of appointment where the real or personal estate thereby appointed would not, in default of such appointment, pass to the testator's heir, executor or administrator, or the person entitled as the testator's next of kin under *The Statute of Distributions*. R. S. O. 1877, c. 106, s. 20. *See section 8 of this Act.*

Revocation by
marriage.
Imp. Act 1 V.
c. 26, s. 18.

21. No will shall be revoked by any presumption of an intention, on the ground of an alteration in circumstances. R. S. O. 1877, c. 106, s. 21. *See section 8 of this Act.*

No presumption
by change of
circumstances.
Imp. Act 1 V.
c. 26, s. 19.

22. No will or codicil, or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator, or by some person in his presence and by his direction, with the intention of revoking the same. R. S. O. 1877, c. 106, s. 22. *See section 8 of this Act.*

How only will
may be re-
voked.
Imp. Act 1 V.
c. 26, s. 20.

23. No obliteration, interlineation or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R. S. O. 1877, c. 106, s. 23.

Of obliterations,
interlineations,
etc.
Imp. Act 1 V.
c. 26, s. 21.

24. No will or codicil, or any part thereof, which has been in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and shewing an intention to revive the same; and where any will or codicil which has been partly revoked, and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shewn. R. S. O. 1877, c. 106, s. 24.

Revival.
Imp. Act 1 V.
c. 26, s. 22.

25. No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real or personal estate therein comprised, except an act by which such will is revoked as aforesaid, shall prevent the operation of the will with respect to such estate, or interest in such real or personal estate, as the testator had power to dispose of by will at the time of his death. R. S. O. 1877, c. 106, s. 25. *See section 8 of this Act.*

No act as to
property
named in the
will to pre-
vent operation
of the will as
to any interest
left in testator.
Imp. Act 1 V.
c. 26, s. 23.

Will to speak
on death.
Imp. Act 1 V.
c. 26, s. 24.

26. Every will shall be construed, with reference to the real and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. R. S. O. 1877, c. 106, s. 26. *See section 8 of this Act.*

Lapsed devise
or interest
in a residuary de-
vise.
Imp. Act 1 V.
c. 26, s. 25.

27. Unless a contrary intention appears by the will, such real estate or interest therein as is comprised or intended to be comprised in any devise, in such will contained, which fails or becomes void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will. R. S. O. 1877, c. 106, s. 27.

Leaseholds,
when they may
pass under a
general devise.
Imp. Act 1 V.
c. 26, s. 26.

28. A devise of the land of the testator, or of the land of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include his leasehold estates, or any of them to which such description will extend (as the case may be), as well as freehold estates, unless a contrary intention appears by the will. R. S. O. 1877, c. 106, s. 28.

A general gift
of realty or
personalty
to include
property
over which
testator has
a general
power of ap-
pointment.
Imp. Act 1 V.
c. 26, s. 27.

29. A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description will extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will, and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R. S. O. 1877, c. 106, s. 29.

General devise
to pass whole
estate in the
land devised.
Imp. Act 1 V.
c. 26, s. 28.
Rev. Stat. c.
108.

30. Where any real estate is devised to any person without any words of limitation, such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, unless a contrary intention appears by the will. R. S. O. 1877, c. 106, s. 30.

Meaning of
"heir" in a
devise of real
estate.

31. Where any real estate is devised by any testator, dying after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no contrary or other in-

tention is signified by the will, the words "heir" or "heirs" shall be construed to mean the person or persons to whom such real estate would descend under the law of Ontario in case of an intestacy. 43 V. c. 14, s. 2.

32. In any devise or bequest of real or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will, by reason of such person having a prior estate tail, or of a preceding gift being; without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise: but this Act shall not extend to cases where such words as aforesaid import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. R. S. O. 1877, c. 106, s. 31.

Import of words "die without issue" or "have no issue" with art. 15 or to that

Act 1 V. c. 29, s. 29.

Proviso.

33. Where any real estate is devised to a trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in such real estate unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R. S. O. 1877, c. 106, s. 32.

When devise to a trustee or executor shall pass whole estate of testator. Imp. Act 1 V. c. 26, s. 30.

34. Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surpluses and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R. S. O. 1877, c. 106, s. 33.

When devise to a trustee shall pass the whole estate beyond which is requisite to the trust. Imp. Act 1 V. c. 26, s. 31. Rev. Stat. c. 108.

35. Where any person to whom any real estate is devised for an estate tail or an estate in *quasi* entail dies in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R. S. O. 1877, c. 106, s. 34.

When devise for an estate tail or in quasi entail shall not lapse. Imp. Act 1 V. c. 26, s. 32.

Gifts to issue
who leave issue
on testator's
death, shall
not lapse.
Imp. Act 1 V.
c. 26, s. 33.

36. Where any person, being a child or other issue of the testator, to whom any real or personal estate is devised or bequeathed for any estate or interest not determinable at or before the death of such person, dies in the lifetime of the testator, leaving issue, and any of the issue of such person are living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R. S. O. 1877, c. 106, s. 35.

Mortgage
debts to be
primarily
chargeable on
the lands.
Imp. Act 17-
18 V. c. 113.

37.—(1) Where any person has died since the 31st day of December, 1865, or hereafter dies seised of or entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum or sums of money by way of mortgage, and such person has not, by his will or deed or other document, signified any contrary or other intention, the heir or devisee to whom such real estate lands or is devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person; but the real estate so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof.

Proviso.

(2) Nothing herein contained shall affect or diminish any right of the mortgagee on such real estate to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying as aforesaid, or otherwise; and nothing herein contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document made before the first day of January, 1874. R. S. O. 1877, c. 106, s. 36.

Consequence
of direction
that testator's
debts be paid
out of per-
sonalty. Imp.
Act 30-31 V.
c. 69, s. 1.

38. In the construction of any will or deed or other document to which the next preceding section of this Act relates, a general direction that the debts or that all the debts of the testator shall be paid out of his personal estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in the said section contained, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some of the testator's debts or debt charged by way of mortgage on any part of his real estate. R. S. O. 1877, c. 106, s. 37.

Acts repealed.

39. The Acts of the Imperial Parliament described in the schedule to this Act (except so far as the same relate to any wills to which section 7 and the following sections of this Act do not extend) are, and shall continue to be, repealed to the extent in

the third column of the said schedule mentioned; but such repeal shall not revive any Act or provision of law repealed by them, nor shall the said repeal prevent the application of any of the said Acts, or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the time of the repeal of the said Acts and to which they would otherwise apply. R. S. O. 1877, c. 106, s. 38.

SCHEDULE.

ACTS REPEALED.	TITLE OF ACTS REPEALED.	EXTENT OF REPEAL.
32 Hen. 8, cap. 1	The Act of Wills, Wards and Primer Seizins, whereby a man may devise two parts of his land.	The whole Act.
34 & 35 Hen. 8, cap. 5.	The Bill concerning the explanation of Wills.	The whole Act.
29 Car. 2, cap. 3.	An Act for the prevention of Frauds and Perjuries.	Sections 5, 6, 12, 19, 20, 21 & 22.
4 & 5 Anne, cap. 16.	An Act for the amendment of the law and the better advancement of justice.	Section 14.
14 Geo. 2, cap. 20.	An Act to amend the law concerning Common Recoveries, and to explain and amend an Act made in the twenty-ninth year of the reign of King Charles the Second, intituled, "An Act for the prevention of Frauds and Perjuries."	Section 9.
25 Geo. 2, cap. 6.	An Act for avoiding and putting an end to certain doubts and questions relating to the attestation of Wills and Codicils concerning real estates in that part of Great Britain called England, and in His Majesty's colonies and plantations in America.	The whole Act.

R. S. O. 1877, c. 106, *Schedule.*

CHAPTER 110.

An Act respecting Trustees and Executors and the Administration of Estates.

INTERPRETATION, s. 1.

RIGHTS AND LIABILITIES OF TRUSTEES :

Indemnity and reimbursement clause, s. 2.

Appointment of new trustees, s. 3.

Vesting of trust property in new or continuing trustees, s. 4.

Trustees buying and selling, s. 5.

Fee simple of bare trustees to vest in their personal representatives, s. 6.

Conveyances by married women as bare trustees, s. 7.

Receipts of trustees to be effectual discharges, s. 8.

RIGHTS AND LIABILITIES OF EXECUTORS :

Actions by and against in respect of torts, ss. 9-11.

Distress by, ss. 12, 13.

Execution on judgment against, s. 14.

Liability of the executors of a joint contractor, s. 15.

Executors may assign, convey, or discharge mortgage, ss. 16, 17.

Devisee in trust or executors empowered to raise money by sale

or mortgage, to satisfy charges, ss. 18-22.

Exercise of powers of sale by executors, etc., when the will names no one to exercise, ss. 23-28.

INVESTMENT BY TRUSTEES OR EXECUTORS, ss. 29, 30.

ADMINISTRATION OF ESTATES :

Executors empowered to pay debts, compromise, submit to arbitration, etc., s. 31.

Debts payable *pari passu* when deficiency of assets, s. 32.

Limitation of actions for claims rejected by executors, s. 33.

Distribution of residuary personal estate after executor has satisfied claims in respect of rents, covenants, etc., and set apart a fund to meet ascertained future claims, ss. 34, 35.

Distribution of assets after notices given to creditors, s. 36.

Application to Court for advice, s. 37.

ALLOWANCES TO TRUSTEES AND EXECUTORS, ss. 38-42.

Interpretation.

Rev. Stat. c. 109.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. In the construction of this Act the words "Will," "Real Estate," "Personal Estate," "Person" and "Testator," shall have the meaning assigned to them respectively by section 9, of *The Wills Act of Ontario*. R. S. O. 1877, c. 107, s. 1.

RIGHTS AND LIABILITIES OF TRUSTEES.

Every instrument to be deemed to contain a clause

2. Every deed, will, or other document creating a trust, either expressly or by implication, shall, without prejudice to the clause actually contained therein, be deemed to contain a clause

in the words or to the effect following, that is to say :—“ That the trustees or trustee, for the time being, of the said deed, will or other instrument, shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects or defaults, and not for those of each other, nor for any banker, broker, or other person with whom any trust moneys or securities may be deposited ; nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively ; and also that it shall be lawful for the trustees or trustee for the time being, of the said deed, will or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument.” R. S. O. 1877, c. 107, s. 2.

3.—(1) Where a trustee, either original or substituted and whether appointed by the High Court or otherwise, dies, or desires to be discharged from, or refuses, or becomes unfit or incapable, to act in the trusts or powers in him reposed, before the same have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor or administrators or administrator of the last surviving and continuing trustee, or for the last retiring trustee, by writing, to appoint any other person or persons to be a trustee or trustees, in place of the trustee or trustees dying, or desiring to be discharged, or refusing, or becoming unfit, or incapable to act as aforesaid ; and so often as any new trustee or trustees is or are so appointed as aforesaid, all the trust property (if any), which for the time being is vested in the surviving or continuing trustees or trustee, or in the heirs, executors or administrators of any trustees or trustee, shall, with all convenient speed be conveyed, assigned and transferred, so that the same may be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees, or a surviving or continuing trustee, as the case may require ; and every new trustee to be appointed as aforesaid, as well before as after such conveyance, assignment or transfer as aforesaid, and also every trustee appointed by the High Court, either before or after the passing of this Act, shall have the same powers, authorities and discretions, and and shall in all respects act as if he had originally been nominated a trustee by the deed, will, or other instrument creating the trust.

for the indemnity and reimbursement of the trustees. Imp. Act 22-23 V. c. 35, s. 31.

Appointment of new trustees. Imp. Act 23-24 V. c. 145, s. 27.

(2) The power of appointing new trustees hereinbefore contained, may be exercised in cases where a trustee, nominated in a will, has died in the lifetime of the testator. R. S. O. 1877, c. 107, s. 4.

Vesting of trust property in new or continuing trustees.

Imp. Act 44 and 45, V. c. 41, s. 34.

4.—(1) Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subject, shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in those persons, as joint tenants, and for the purposes of the trust, that estate, interest or right.

(2) Where an instrument by which a retiring trustee is discharged under this Act contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone, as joint tenants, and for the purposes of the trust, the estate, interest, or right to which the declaration relates.

(3) This section does not extend to any such share, stock, annuity, or property as is only transferable in books kept by a company or other body, or in manner prescribed by or under an Act of Parliament or of this Legislature.

(4) For purposes of registration of an instrument in any registry, the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act.

(5) This section applies only to instruments executed after the 1st day of July, 1886. 49 V. c. 20, s. 17.

Trustees buying or selling.

Rev. Stat. c. 112.

5. Trustees who are vendors or purchasers may sell or buy without excluding the application of section 1 of *The Act to amend the Law of Vendor and Purchaser and to Simplify Titles*. R. S. O. 1877, c. 107, s. 4.

Fee simple estates of bare trustees to vest in their personal representatives.

6. Upon the death of a bare trustee of any corporeal or incorporeal hereditament of which such trustee was seised in fee simple, such hereditaments shall vest in the legal personal representative, from time to time, of such trustee. R. S. O. 1877, c. 107, s. 5.

Conveyances by married woman as bare trustee.

7. Where any freehold hereditament is vested in a married woman as a bare trustee, she may convey or surrender the same as if she were a *feme sole*, and without her husband joining in the conveyance. R. S. O. 1877, c. 107, s. 6.

8. The *bona fide* payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust, or for any limited purpose, and such payment to and receipt by the survivors or survivor of two or more mortgagees or holders, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security. R. S. O. 1877, c. 107, s. 7. See also Cap. 102, s. 15. Receipts of money paid to or received by any person for or on behalf of a trust or estate, or for or on behalf of a mortgagee or holder, or for or on behalf of the survivors or survivor of two or more mortgagees or holders, or for or on behalf of the executors or administrators of such survivor, or for or on behalf of their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security.

RIGHTS AND LIABILITIES OF EXECUTORS, ETC.

9. The executors or administrators of any deceased person may maintain an action for all torts or injuries to the person or to the real or personal estate of the deceased, except in cases of libel and slander, in the same manner, and with the same rights and remedies as the deceased would, if living, have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased; but such action shall be brought within one year after his decease. 49 V. c. 16, s. 23. Actions by executors or administrators for torts.

10. In case any deceased person committed a wrong to another in respect of his person, or of his real or personal property, the person so wronged may maintain an action against the executors or administrators of the person who committed the wrong. The action shall be brought at latest within one year after the decease. This section does not apply to libel or slander. 49 V. c. 16, s. 23; 50 V. c. 7, s. 33. Actions by persons wronged by executors or administrators for torts.

11. In estimating the damages in any action under either of the preceding two sections, the benefit, gain, profit or advantage which, in consequence of or resulting from the wrong committed, may have accrued to the estate of the person who committed the wrong, shall be taken into consideration, and shall form part, or may constitute the whole, of the damages to be recovered, and whether or not any property, or the proceeds or value of property, belonging to the person bringing the action or to his estate, has or have been appropriated by or added to the estate or moneys of the person who committed the wrong. 49 V. c. 16, s. 23. Damages in actions under two preceding sections.

12. The executors or administrators of any lessor or landlord may distrain upon the lands demised for any term or at will, for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done if living. R. S. O. 1877, c. 107, s. 10. Executors or administrators of a lessor may distrain for arrearages.

Such arrearages of rent may be distrained for within six months after determination of the lease.

13. Such arrearages may be distrained for at any time within six months after the determination of the term or lease, and during the continuance of the possession of the tenant from whom the arrears became due; and the powers and provisions contained in the several statutes relating to distresses for rent shall be applicable to the distresses so made as aforesaid. R. S. O. 1877, c. 107, s. 11.

Interest in real estate devised by a judgment creditor.

14. The title and interest of a testator or intestate in real estate may be seized and sold under a judgment, and execution recovered by a creditor of the testator or intestate, against his executor or administrator, in the same manner as if the same process that the same could be sold under a judgment against the testator or intestate. R. S. O. 1877, c. 107, s. 13. See also Chap. 64, s. 26.

Representatives of joint contractors, obligors or partners, including those living.

15. In case any one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners, may proceed by action against the representatives of the deceased contractor, obligor or partner, in the same manner as if the contract, obligation or promise, had been joint and several, and this, notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies, shall not be liable to a greater extent than they would have been if this section had not been passed. R. S. O. 1877, c. 107, s. 14.

Where any person entitled to any freehold land by way of mortgage has departed this life, and his executor or administrator has become entitled to the money secured by the mortgage or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land; and such executor or administrator shall have the same power as to any portion of the lands on payment of some part of the mortgage debt, or on any arrangement for exonerating the estate, or any part of the mortgage lands without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the person having the mortgagee's estate in the land. R. S. O. 1877, c. 107, s. 15. See also Chap. 102, s. 12.

16. Where any person entitled to any freehold land by way of mortgage has departed this life, and his executor or administrator has become entitled to the money secured by the mortgage or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land; and such executor or administrator shall have the same power as to any portion of the lands on payment of some part of the mortgage debt, or on any arrangement for exonerating the estate, or any part of the mortgage lands without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the person having the mortgagee's estate in the land. R. S. O. 1877, c. 107, s. 15. See also Chap. 102, s. 12.

Certificate of payment of mortgage, and at whatever time.

17. Every certificate of payment or discharge of a mortgage, or of the conditions therein, or of the lands or of any part of the same, or of any part of the money by the mortgagee or his executor, administrator, assignor or assignee, or any

one of them, at whatsoever time given, and whether before or after the time limited by the mortgage for payment or performance, shall, if in conformity with *The Registry Act*, be valid to all intents and purposes whatsoever. R.S.O. 1877, c. 107, s. 16. Rev. Stat. c. 114.
See also Cap. 102, s. 13.

18. Where, by any will coming into operation after the eighteenth day of September, 1865, or after the passing of this Act, a testator charges his real estate, or any specific portion thereof, with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein, and does not make any express provision for the raising of such debt, legacy or sum of money out of such estate, the said devisee or devisees in trust, notwithstanding any trusts actually declared by the testator, may raise such debt, legacy or money as aforesaid by a sale and absolute disposition, by public auction or private contract, of the said real estate or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other, and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same think proper. R. S. O. 1877, c. 107, s. 17. Devisee in trust may raise money by sale or mortgage to satisfy charges, notwithstanding want of express power in the will. Imp. Act 22-23 V. c. 35, s. 14.

19. The powers conferred by the last section shall extend to all and every the person or persons in whom the estate devised is for the time being vested by survivorship, descent or devise, or to any person or persons appointed under any power in the will or by the High Court to succeed to the trusteeship vested in such devisee or devisees in trust as aforesaid. R. S. O. 1877, c. 107, s. 18. Power given by last section extended to survivors, devisees, &c. Imp. Act 22-23 V. c. 35, s. 15.

20. If a testator who creates such a charge as is described in section 18 does not devise the real estate charged as aforesaid in such terms as that his whole estate and interest therein become vested in any trustee or trustees, the executor or executors for the time being named in the will (if any) shall have the same or the like power of raising the said moneys as is hereinbefore conferred upon the devisee or devisees in trust of the said real estate; and such powers shall from time to time devolve to and become vested in the person or persons (if any) in whom the executorship is for the time being vested; but any sale or mortgage under this Act shall operate only on the estate and interest of the testator. R. S. O. 1877, c. 107, s. 19. Executor to have power of raising money where there is no sufficient devise. Imp. Act, 22-23 V. c. 35, s. 16.

21. Purchasers or mortgagees shall not be bound to inquire whether the powers conferred by the preceding three sections of this Act, or any of them, have been duly and correctly exercised by the person or persons acting in virtue thereof. R. S. O. 1877, c. 107, s. 20. Purchasers, &c., not bound to inquire as to exercise of powers. Imp. Act, 22-23 V. c. 35, s. 17.

Sections 18 to 21 not to affect certain sales nor to extend to devises in fee or in tail.
Imp. Act, 22-23 V. c. 33, s. 18.

22. The provisions contained in the preceding four sections shall not in any way prejudice or affect any sale or mortgage already made or hereafter to be made under or in pursuance of any will coming into operation before the eighteenth day of September, 1865; but the validity of any such sale or mortgage shall be ascertained and determined in all respects as if this Act had not been passed; and the said several sections shall not extend to a devise to any person or persons in fee or in tail, or for the testator's whole estate and interest charged with debts or legacies, nor shall they affect the power of any such devisee or devisees to sell or mortgage as he or they may by law now do. R. S. O. 1877, c. 107, s. 21.

Powers of sale etc., may be exercised by executor when no other person is appointed to exercise same.

23. Where there is in any will or codicil of any deceased person, (whether such will has been made, or such person has died before or after the said first day of January, 1874, any direction whether express or implied, to sell, dispose of, appoint, mortgage, incumber or lease any real estate, and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute and carry the same into effect, the executor or executors (if any) named in such will or codicil shall and may execute and carry into effect every such direction to sell, dispose of, appoint, incumber or lease such real estate, and any estate or interest therein, in as full, large, and ample a manner, and with the same legal effect, as if the executor or executors of the testator were appointed by the testator to execute and carry the same into effect. R. S. O. 1877, c. 107, s. 22.

Administrator with will annexed may exercise powers of sale, given to the executor.

24. Where there is in any will or codicil thereto of any deceased person, (whether such will has been made, or such person has died before or after the first day of January, 1874, any power to any executor or executors in such will to sell, dispose of, appoint, mortgage, incumber, or lease any real estate, or any estate or interest therein, whether such power is express, or arises by implication, and where, from any cause, letters of administration with such will annexed have been by a Court of competent jurisdiction in Ontario committed to any person, and such person has given the additional security required by section 55 of *The Surrogate Courts Act*, such person shall and may exercise every such power, and sell, dispose of, appoint, mortgage, incumber, or lease such real estate, and any estate or interest therein in as full, large, and ample a manner, and with the same legal effect for all purposes, as the said executor or executors might have done. R. S. O. 1877, c. 107, s. 23.

Rev. Stat. c. 50, s. 55.

Or when no one named in the will to execute powers of sale, etc.

25. Where there is in any will or codicil thereto of any deceased person (whether such will has been made or such person has died before or after the first day of January, 1874,) any power to sell, dispose of, appoint, mortgage, incumber, or lease any real estate, or any estate or interest therein, whether such

power is express, or arises by implication, and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute such power, and letters of administration with such will annexed, have been by a Court of competent jurisdiction in Ontario, committed to any person, and such person has given the additional security before mentioned such person shall and may exercise every such power, and sell, dispose of, appoint, mortgage, incumber or lease such real estate, and any estate or interest therein, in as full, large, and ample a manner, and with the same legal effect, as if such last named person had been appointed by the testator to execute such power. R. S. O. 1877, c. 107, s. 24.

26. Where any person has entered into a contract in writing for the sale and conveyance of real estate, or of any estate or interest therein, and such person has died intestate, or without providing by will for the conveyance of such real estate, or estate or interest therein, to the person entitled or to become entitled to such conveyance under such contract, then, where, upon the supposition of the deceased being alive, he would be liable to execute a conveyance, the executor, administrator, or administrator with the will annexed (as the case may be), of such deceased person, shall make and give to the person entitled to the same a good and sufficient conveyance or conveyances of such estates, and of such nature as the said deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor; and such conveyances shall be as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but shall not have any further validity. R. S. O. 1877, c. 107, s. 25.

Executor etc., may convey in pursuance of a contract for sale made by deceased.

27. Every executor, administrator, and administrator with the will annexed, shall, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, be subject to all the liabilities, and compellable to discharge all the duties of whatsoever kind, which, as respects the acts to be done by him under such powers, would have been imposed upon an executor or other person appointed by the testator to execute the same, or in case of there being no such executor or person, would have been imposed by law upon any person appointed by law, or by any Court or Judge of competent jurisdiction to execute such powers. R. S. O. 1877, c. 107, s. 26.

Duties and liabilities of an executor and administrator acting under the powers in this Act.

28. Where there are several executors, administrators, or administrators with the will annexed, and one or more of them die, the powers hereby created shall vest in the survivor or survivors. R. S. O. 1877, c. 107, s. 27.

Powers given by this Act to two or more to survive.

[As to moneys paid under Life Assurance Policies. See Rev. Stat. c. 167, s. 13.]

INVESTMENTS BY TRUSTEES OR EXECUTORS.

Trustees or executors may invest trust moneys in stock or securities of Dominion or of Province.

Investments already made may be held properly invested. Imp. Stat. 23-24 V. c. 115, s. 25.

29.—(1) Trustees or executors having trust money in their hands, which it is in their duty, or which it is in their discretion to invest at interest, shall be at liberty at their discretion, to invest the same in any stock, debentures or securities of the Government of the Dominion of Canada, or of this Province; or in securities which are a first charge on land held in fee simple, provided that such investments are in other respects reasonable and proper, and such trustees or executors shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same in any such stock, debentures or securities aforesaid, and also, from time to time, at their discretion, to vary any such investments as aforesaid, for others of the same nature; and any such moneys already invested in any such stock, debentures or securities as aforesaid, shall be held and taken to have been lawfully and properly invested.

When powers not to be exercised.

(2) None of the powers by this section conferred shall take effect, or be exercisable, by virtue of this Act, by any trustees or executors, if it is expressly declared in the deed, will or other instrument creating such trustees or executors, that such trustees or executors shall not have such power.

This section to apply to all trustees, etc.

(3) This section shall apply and extend to both present and future trustees and executors. R. S. O. 1877, c. 107, s. 28; 49 V. c. 16, s. 24.

Trustees may invest in debentures of certain companies.

30.—(1) Any trustee, executor or administrator, if not, by the instrument creating his trust, expressly forbidden to do so, may invest any trust fund in debentures of any society or company incorporated under chapter 164 of the Revised Statutes of Ontario, 1877, or any Act incorporated therewith, or under Chapter 169 of these Revised Statutes having a capitalized, fixed and permanent stock not liable to be withdrawn therefrom, amounting to at least \$100,000, and he shall not on account of the investment be liable as for a breach of trust, provided that such investment shall in other respects be reasonable and proper, and that the debentures are registered and transferable only on the books of such society or company in his name as trustee for the particular trust estate for which they are held. 42 V. c. 21, s. 1.

Proviso.

(2) This section shall not apply to any instrument creating a trust executed before the first day of January, 1880. 42 V. c. 21, s. 2.

ADMINISTRATION OF ESTATES.

Executors may pay debts, etc.

31.—(1) It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient and to accept any composition or any security, real or personal, for any debts due to the deceased, and to allow any time for pay-

ment of any such debts as they may think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and, for any of the purposes aforesaid, to enter into, give and execute such agreements, instruments of composition, releases and other things, as they may think expedient, without being responsible for any loss occasioned thereby.

Accept composition or security for same, etc.,

And compound same, etc.,

Imp. Stat. 23-24 V. c. 145, s. 30.

(2) None of the powers in this section conferred shall take effect, or be exercisable, by virtue of this Act, by any trustees or executors, if it is expressly declared in the deed, will or other instrument creating such trustees or executors, that such trustees or executors shall not have such power.

When powers not to be exercised.

(3) This section shall apply and extend to both present and future trustees and executors. R. S. O. 1877, c. 107, s. 29.

This section to apply to all trustees.

32. On the administration of the estate of a deceased person, in case of a deficiency of assets, debts due to the Crown and to the executor or administrator of the deceased person, and debts to others, including therein respectively debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as by statute are payable in like order of administration as simple contract debts—shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate. R. S. O. 1877, c. 107, s. 30.

In case of deficiency of assets, certain debts to rank *pari passu*.

Exception.

33. In case the executor or administrator gives notice in writing referring to this section and of his intention to avail himself thereof to any creditor or other person of whose claims against the estate he has notice, or to the attorney or agent of such creditor or other person, that he the executor or administrator rejects or disputes the claim, it shall be the duty of the claimant to commence his action in respect of the claim within six months after the notice is given, in case the debt or some part thereof was due at the time of the notice, or within six months from the time the debt or some part thereof falls due if no part thereof was due at the time of the notice, and in default the claim shall be forever barred: provided always that in case the claimant shall be nonsuited at the trial the claimant, or his executors or administrators, may commence a new action within a further period of one month from the time of the nonsuit. 50 V. c. 7, s. 11.

If claim is referred an action must be brought within a certain period or be barred.

Proviso.

34. Where an executor or administrator, liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said lease or agreement for any lease, as may have accrued due and been claimed up to the time of

As to liability of executor or administrator in respect of covenants, etc., in leases of testator or intestate.

Imp. Act 22-
23 V. c.
35, s. 27.

the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for the lease, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and among the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased, to meet any future liability under the said lease, or agreement for a lease; and the executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease, or agreement for a lease; but nothing herein contained shall prejudice the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed. R. S. O. 1877, 107. s. 32.

As to liability
of executor in
respect of
rents, etc., in
testator's or
intestate's
conveyances
on rent-charge,
etc. Imp.
Act 22-23, V.
c. 35, s. 28.

35. In like manner where an executor or administrator, liable as such to the rent, covenants or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said conveyance, or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and amongst the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased, to meet any future liability under the said conveyance, or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance; but nothing herein contained shall prejudice the right of the grantor, or those

claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed. R. S. O. 1877, c. 107, s. 33.

36. Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or a particular class or classes of creditors, where the creditors are not designated by name therein, or an executor or an administrator has given such or the like notices as in the opinion of the Court in which such trustee, assignee, executor, or administrator is sought to be charged, would have been given by the High Court in an action for the execution of the trusts of such deed or assignment, or an administration suit (as the case may be), for creditors and others, to send into such trustee, assignee, executor or administrator, their claims against the person for the benefit of the creditors of whom such deed or assignment is made, or the estate of the testator or intestate, (as the case may be), the trustee, assignee, executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the proceeds of the trust estate, or the assets of the testator or intestate (as the case may be), or any part thereof amongst the parties entitled thereto, having regard to the claims of which the trustee, assignee, executor or administrator has then notice, and shall not be liable for the proceeds of the trust estate, or assets (as the case may be), or any part thereof, so distributed to any person of whose claim the trustee, assignee, executor or administrator had not notice at the time of the distribution thereof or a part thereof (as the case may be); but nothing in this Act contained shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate or assets (as the case may be), or any part thereof, into the hands of the person or persons who may have received the same respectively. 46 V. c. 9, s. 1.

Distribution of assets under trust deeds for benefit of creditors, or of the assets of a testator or intestate after notice given by trustee, executor or administrator.

Summary Application to Court for Advice.

37.—(1) Any trustee, executor or administrator, shall be at liberty, without the institution of an action, to apply by petition to a Judge of the High Court, or by summons upon a written statement to any such Judge in Chambers, for the opinion, advice or direction of such Judge on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

Trustee, executor, etc., may apply by petition to Judge for opinion, advice, etc., in management, etc., of trust property.
Imp. Act 22-23 V. c. 35, s. 30.

(2) The petition or statement shall be accompanied by a certificate of counsel, to the effect that in his judgment the case stated is a proper one for the opinion, advice, or direction of the Judge under this Act; and the application shall be served upon, or the hearing thereof shall be attended by all persons interested in the application, or such of them as the Judge thinks expedient.

(3) The costs of the application shall be in the discretion of the Judge to whom the application is made.

(4) The trustee, executor or administrator, acting upon the opinion, advice or direction given by the Judge, shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, executor or administrator, in the subject matter of the said application: but this provision shall not extend to indemnify a trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if the trustee, executor or administrator has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R. S. O. 1877, c. 107, s. 35.

ALLOWANCE TO TRUSTEES AND EXECUTORS.

Allowance to trustees.

38. Any trustee under a deed, settlement or will, any executor or administrator, any guardian appointed by any Court, and any testamentary guardian, or any other trustee, howsoever the trust is created, shall be entitled to such fair and reasonable allowance for his care, pains and trouble, and his time expended in and about the trust estate, as may be allowed by the High Court or Judge, or by any master or referee thereof, to whom the matter may be referred. R. S. O. 1877, c. 107, ss. 36, 37.

Allowance to be made though the estate not before the Court.

39. A Judge of the High Court may, on application to him for the purpose, settle the amount of such compensation, although the trust estate is not before the Court in any action. R. S. O. 1877, c. 107, s. 38.

Act to apply to existing as well as future trusts.

40. Compensation may be allowed in the case of any trust heretofore created, as well as in any to be hereafter created. R. S. O. 1877, c. 107, s. 40.

Surrogate Judge may order an allowance to be made to executor or administrator out of the estate for his trouble.

41. The Judge of any Surrogate Court may allow to the executor or trustee or administrator acting under will or letters of administration, a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the executorship, trusteeship or administration of the estate and effects vested in him under any will or letters of administration, and in administering, disposing of and arranging and settling the same, and generally in arranging and settling the affairs of the estate, and may make an order or orders from time to time therefor and the same shall be allowed to an executor, trustee or administrator in passing his accounts. R. S. O. 1877, c. 107, s. 41.

Allowance fixed by the instrument.

42. Nothing in the preceding four sections shall apply to any case in which the allowance is fixed by the instrument creating the trust. R. S. O. 1877, c. 107, s. 39.

4. CONFIRMATION AND EVIDENCE OF TITLE.

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CHAPTER 111.

An Act respecting the Limitation of Actions relating to Real Property, and the time of Prescription in certain cases.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as "*The Real Property Limitation Act.*" R. S. O. 1877, c. 108, s. 1.

Interpretation.

2. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :—

"Land."

1. "Land" shall extend to messuages and all other hereditaments, whether corporeal or incorporeal, and to money to be laid out in the purchase of land (and to chattels and other personal property transmissible to heirs), and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency ;

"Assurance."

2. "Assurance" shall mean any deed or instrument (other than a will) by which any land may be conveyed or transferred ; and

"Rent."

3. "Rent" shall extend to all annuities and periodical sums of money charged upon or payable out of any land. R. S. O. 1877, c. 108, s. 2.

Commence-
ment of Act.
C. S. U. C. c.
88 ; 32 V. c. 7.
s. 22.

3. This Act shall commence and be deemed to have taken effect, and chapter 88 of the Consolidated Statutes of Upper Canada, and section 22 of the Act passed in the thirty-second year of Her Majesty's reign, and chaptered 7, to have been repealed, on and after the first day of July in the year of our Lord 1877, as respects any person who on and for twelve months continuously after the twenty-first day of December, 1874, resided without this Province, and is a person entitled to make an entry or distress or to bring an action to recover any land or rent ; or so resident, is a mortgagor, or person entitled to

redeem within the meaning of sections 19, 20 or 21 of this Act; or so resident is a person entitled to, or claiming under a mortgage within the meaning of section 22; or so resident is a person entitled to bring an action, or other proceeding within the meaning of section 23; or so resident is a person entitled to an action or other proceeding within the meaning of section 24; or so resident is a person claiming an estate, interest or right, to take effect after or in defeasance of an estate tail within the meaning of section 29; or so resident is a person entitled to demand dower; and except as respects the persons, and in the cases, mentioned above in this section, this Act shall be deemed to have commenced and taken effect and the said Acts to have been repealed from and after the first day of July, 1876. R. S. O. 1877, c. 108, s. 3.

LAND OR RENT.

4. No person shall make an entry or distress, or bring any action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims; or if such right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing the same. R. S. O. 1877, c. 108, ss. 4, 29.

No land or rent to be recovered but within ten years after the right of action accrued.

Imp. 3-4 Wm. iv. c. 27, s. 2; 37-38 V. c. 57, s. 1.

5. In the construction of this Act, the right to make an entry or distress, or bring an action to recover any land or rent, shall be deemed to have first accrued at such time as hereinafter is mentioned;

When the right shall be deemed to have first accrued.

1. Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in the receipt of the profits of such land, or in receipt of such rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were or was so received.

On dispossession. Imp. Act, 3-4 Wm. iv. c. 27, s. 3.

2. Where the person claiming such land or rent claims the estate or interest of some deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death.

On abatement or death. Imp. Act, 3-4 Wm. iv. c. 27, s. 3.

3. Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by any instrument other than a will, to him or some person through whom he claims, by a person being

On alienation. Imp. Act, 3-4 Wm. iv. c. 27, s. 3.

in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such instrument has been in possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming, as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument.

As to lands
not cultivated
or improved.

4. In the case of lands granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some portion thereof, and in case some other person not claiming to hold under such grantee has been in possession of such land, such possession having been taken while the land was in a state of nature, then unless it can be shewn that such grantee or such person claiming under him while entitled to the lands had knowledge of the same being in the actual possession of such other person, the lapse of ten years shall not bar the right of such grantee or any person claiming under him to bring an action for the recovery of such land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained: but no such action shall be brought or entry made after twenty years from the time such possession was taken as aforesaid.

Proviso.

When rent
amounting to
\$4 reserved by
lease in writing
has been
wrongfully re-
ceived, right
deemed to
accrue at
the time
the rent was
wrongfully
received.
Imp. Act, 3-4
W. iv. c. 27,
s. 9.

5. Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

No person
after a tenancy
from year to
year to have
any right but
from the end
of the first
year or last
payment of
rent.
Imp. Act, 3-4
W. iv. c. 27,
s. 8.

6. Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received (whichever last happened).

7. Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined.

In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year. Imp. Act, 1 W. iv. c. 27 s. 7.

8. No mortgagee or *cestui que trust* shall be deemed to be a tenant at will within the meaning of the next preceding subsection to his mortgagee or trustee.

Case of mortgagee or *cestui que trust*.

9. Where the person claiming such land or rent, or the person through whom he claims, has become entitled, by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition broken.

In case of forfeiture or breach of condition. 1. Act, 3-4 W. c. 27, s. 3.

10. Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

Where advantage of forfeiture is not taken by remainderman, he shall have a new right when estate comes into possession. Imp. Act, 3-4 W. iv. c. 27, s. 3.

11. Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land, or the receipt of such rent, in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

In case of future estates. Imp. Act, 3-4 W. iv. c. 27, s. 3.

12. A right to make an entry or a distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder, or other future estate or interest, at the time at which the same became an estate or interest in possession, by the determination of any estate or estates in respect of which such land has been held or the profits thereof or such rent have been received, notwithstanding that the person claiming such land or rent, or some person through whom he claims, has, at any time previously to the creation of the estate or estates which have determined, been in the possession or receipt of the profits of such land, or in receipt of such rent. R. S. O. 1877, c. 108, s. 5.

Provisions for case of future estates. Imp. Act, 3-4 W. iv. c. 27, s. 5, 37-38 V. c. 57, s. 2.

Time limited as to future estates when person entitled to the particular estate out of possession, etc. Imp. Act, 37-38 V. c. 57, s. 2.

6.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought, by any person becoming entitled in possession to a future estate or interest, but within ten years next after the time when the right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

The case of bar of future estate and of a subsequent interest created after right of entry, etc., accrued to owner of particular estate. Imp. Act, 37-38 V. c. 57, s. 2.

(2) If the right of any such person to make such entry or distress, or to bring any such action, has been barred under this Act, no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall make any such entry or distress, or bring any such action, to recover such land or rent.

When the right to an estate in possession is barred, the right of the same persons to future estates shall also be barred. Imp. Act, 3-4 W. iv. c. 27, s. 20.

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period, hereinbefore limited, which is applicable in such case, and such person has, at any time during the said period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession. R. S. O. 1877, c. 108, s. 6.

An administrator to claim as if he obtained the estate without interval after death of deceased. Imp. Act, 3-4 W. iv. c. 27, s. 6.

7. For the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose chattels he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R. S. O. 1877, c. 108, s. 7.

A mere entry not to be deemed possession. *Idem* s. 10.

8. No person shall be deemed to have been in possession of any land within the meaning of this Act, merely by reason of having made an entry thereon. R. S. O. 1877, c. 108, s. 8.

9. No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action. R. S. O. 1877, c. 108, s. 9.

No right to be preserved by continual claim.
Idem s. 11.

10. No descent cast, discontinuance or warranty, which has happened or been made since the first day of July, 1834, or which may hereafter happen or be made, shall toll or defeat any right of entry or action for the recovery of land. R. S. O. 1877, c. 108, s. 10.

No descent, warranty, &c., to bar a right of entry or action.
Idem s. 3.

11. Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them. R. S. O. 1877, c. 108, s. 11.

Possession of one coparcener, etc., to be the possession of others.
Imp. Act, W. iv. c. 11, s. 12.

12. Where a relation of the persons entitled, as heirs, to the possession, or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R. S. O. 1877, c. 108, s. 12.

Possession of relations to be the possession of the heirs.
Idem s. 13.

13. Where any acknowledgment of the title of the person entitled to any land or rent has been given to him or to his agent in writing, signed by the person in possession or in receipt of the profits of such land, or in the receipt of such rent, such possession or receipt of or by the person by whom such acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right of such last mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R. S. O. 1877, c. 108, s. 13.

Acknowledgment in writing given to the person entitled or his agent, to be equivalent to possession or receipt of rent.
Imp. Act, 3-4 W. iv. c. 27, s. 14.

14. The receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R. S. O. 1877, c. 108, s. 14.

Receipt of rent to be deemed receipt of profits.
Imp. Act, 3-4 W. iv. c. 27, s. 35.

At the end of the period of limitation the right of the party out of possession to be extinguished. Imp. Act, 3-4, W. iv. c. 27, s. 34.

15. At the determination of the period limited by this Act to any person for making an entry or distress, or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period shall be extinguished. R. S. O. 1877, c. 108, s. 15.

ARREARS OF DOWER, RENT, AND INTEREST.

No arrears of dower to be recovered for more than six years. *Idem* s. 41.

16. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R. S. O. 1877, c. 108, s. 16.

No arrears of rent or interest to be recovered for more than six years. Imp. Act, 3-4, W. iv. c. 27, s. 42.

17. No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, or action, but within six years next after the same respectively has become due, or next after any acknowledgment of the same in writing has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent. R. S. O. 1877, c. 108, s. 17.

Exception in favour of subsequent mortgagee when a prior mortgagee has been in possession. *Idem* s. 42.

18. Where any prior mortgagee or other incumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action the arrears of interest which have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years. R. S. O. 1877, c. 108, s. 18.

MORTGAGES AND CHARGES ON LAND.

Mortgagor to be barred at end of ten years from the time when the mortgagee took possession, or from the last written acknowledgment. Imp. Acts, 3-4, W. iv. c. 27, s. 28; and 37-38 V. c. 57, s. 7.

19. Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage, but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee or the person claiming through him; and in such case no such action shall be brought, but within ten years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given. R. S. O. 1877, c. 108, s. 19.

20. In case there are more mortgagors than one, or more persons than one claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons. R. S. O. 1877, c. 108, s. 20.

Acknowledgment to one of several mortgagors. Imp. Act. 3-4 W. iv. c. 27, s. 28.

21. In case there are more mortgagees than one, or more persons than one claiming the estate or interest of the mortgagee or mortgagees, such acknowledgement, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons aforesaid as have given such acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R. S. O. 1877, c. 108, s. 21.

Acknowledgment by one of several mortgagees. Imp. Act. 3-4 W. iv. c. 27, s. 28.

22. Any person entitled to or claiming under a mortgage of land, may make an entry or bring an action to recover such land, at any time within ten years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R. S. O. 1877, c. 108, s. 22.

Mortgagee may enter or sue within ten years from last payment. Imp. Act. 7 W. iv. & 1 V. c. 28.

23. No action or other proceeding shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of such land or rent, or to recover any legacy, but within ten years next after a present right to receive the same accrued to some person capable of giving a discharge for, or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person by whom the same is payable, or his agent, to the person entitled thereto or his agent; and in such case no action or

Money charged upon land and legacies to be deemed satisfied at the end of ten years, no interest paid or acknowledgment given in writing in the meantime.

Imp. Acts 3-4 proceeding shall be brought, but within ten years after
 W. iv. c. 27, such payment or acknowledgment, or the last of such pay-
 s. 40; and ments or acknowledgments, if more than one was made or
 37-38 V. c. 57, given. R. S. O. 1877, c. 108, s. 23.
 s. 8.

Time for re- **24.** No action, or other proceeding shall be brought to
 covering recover any sum of money or legacy charged upon or payable,
 charges and out of any land or rent, and secured by an express trust,
 years of in- or to recover any arrears of rent or of interest in respect
 rest not to of any sum of money or legacy so charged or payable
 be enlarged by and so secured, or any damages in respect of such arrears,
 express trusts except within the time within which the same would be re-
 in raising the coverable if there were not any such trust. R. S. O. 1877, c. 108,
 same. s. 24.
 Imp. Act 37-38
 V. c. 57, s. 10.

DOWER.

Action of **25.** No action of dower shall be brought but within ten
 dower to be years from the death of the husband of the dowress, notwith-
 brought with- standing any disability of the dowress or of any person claim-
 in ten years. ing under her. R. S. O. 1877, c. 108, s. 25.

Time from **26.** Where a dowress has, after the death of her husband,
 which right to actual possession of the land of which she is dowable, either
 bring action of alone or with heirs or devisees of her husband, the period of
 dower to be ten years within which her action of dower is to be brought
 computed. shall be computed from the time when such possession of the
 dowress ceased. This section shall not apply to any case in
 which the right of action has ceased before the fifth day of
 March, 1880. 43 V. c. 14, s. 3.

BAR OF ESTATES TAIL.

Time period **27.** Where the right of a tenant in tail of any land or rent
 of limitation to make an entry or distress or to bring an action to recover
 elapsed against the same, has been barred by reason of the same not having
 a tenant in tail been made or brought within the period limited by this Act,
 to be deemed no such entry, distress or action shall be made or brought by
 to have elapsed any person claiming any estate, interest or right which such
 against those tenant in tail might lawfully have barred. R. S. O. 1877, c. 108,
 whose rights s. 26.
 he could have Imp. Act, 3-4
 barred. W. iv. c. 27,
 s. 21.

Time elapsed **28.** Where a tenant in tail of any land or rent entitled to
 in such cases recover the same has died before the expiration of the period
 during the life limited by this Act, no person claiming any estate, interest or
 of the tenant right which such tenant in tail might lawfully have barred,
 to be computed shall make an entry or distress or bring an action to recover
 against those such land or rent, but within the period during which, if such
 whose rights tenant in tail had so long continued to live, he might have
 he could have made such entry or distress or brought such action. R. S. O.
 barred. 1877, c. 108, s. 27.
 Imp. Act, 3-4
 W. iv. c. 27,
 s. 22.

29. Where a tenant in tail of any land or rent has made an assurance thereof, which does not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person is by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person or any other person whosoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues or is in such possession or receipt for the period of ten years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then, at the expiration of such period of ten years, such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. R. S. O. 1877, c. 108, s. 28.

In case of session under an assurance by a tenant in tail, which does not bar the remainder, they shall be barred at the end of ten years after that period at which the assurance, if then executed, would have barred them. Imp. Act, 3-4 W. iv. c. 27, s. 23; and 37-38 V. c. 57, s. 6.

EQUITABLE CLAIMS.

30.—(1) Where any land or rent is vested in a trustee upon any express trust, the right of the *cestui que trust*, or any person claiming through him to bring an action against the trustee or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him. R. S. O. 1877, c. 108, s. 30.

In case of express trust, the right shall not be deemed to have accrued until a conveyance to a purchaser. Imp. Act, 3-4 W. iv. c. 27, s. 25.

2) No claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. 44 V. c. 5, s. 17 (2).

Claim of *cestui que trust* against trustee.

31. In every case of a concealed fraud, the right of any person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered. R. S. O. 1877, c. 108, s. 31.

In cases of fraud no time shall run whilst the fraud remains concealed. Imp. Act, 3-4 W. iv. c. 27, s. 26.

32. Nothing in the last preceding section contained shall enable any owner of lands or rents to bring an action for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents, on account of fraud against any *bona fide* purchaser for valuable consideration, who has not assisted in the commission of such fraud, and who, at the

Unless in the case of *bona fide* purchaser for value without notice. Imp. Act, 3-4 W. iv. c. 27, s. 26.

time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed. R. S. O. 1877, c. 108, s. 32.

Right to
refuse relief on
the ground of
acquiescence
or otherwise.
Imp. Act, 3-4
W. iv. c. 27,
s. 27.

33. Nothing in this Act contained shall be deemed to interfere with any rule of Equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R. S. O. 1877, c. 108, s. 33.

PREScription IN CASES OF EASEMENTS.

Certain claims
not to be de-
feated by
shewing only
that the same
enjoyed for
less than 30
years.
Imp. Act, 2-3
W. iv. c. 71,
s. 1.

34. No claim which may be lawfully made at the Common Law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of our Sovereign Lady the Queen, Her Heirs or Successors, or of any ecclesiastical or lay person or body corporate, except such matters or things as are hereinafter specially provided for, and except rent, and services, shall, where such profit or benefit has been actually taken and enjoyed by any person claiming right thereto, without interruption for the full period of thirty years, be defeated or destroyed by shewing only that such profit or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such profit or benefit has been so taken and enjoyed as aforesaid for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing. R. S. O. 1877, c. 108, s. 34.

Indefeasible if
enjoyed over
60 years.

Right of way,
or water not to
be defeated by
shewing only
that it began
more than 20
years ago.
Imp. Act 2-3
W. iv. c. 71,
s. 2.

35. No claim which may lawfully be made at the Common Law by custom, prescription or grant, to any way or other easement, or to any water-course, or the use of any water to be enjoyed, or derived upon, over, or from any land or water of our said Lady the Queen, Her Heirs or Successors, or being the property of any ecclesiastical or lay person or body corporate, when such way or other matter as herein last before mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by shewing only that such way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless, such claim may be defeated in any other way by which the same is now liable to be defeated, and where such way or other matter as herein last before mentioned has been so enjoyed as aforesaid for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R. S. O. 1877, c. 108, s. 35.

Indefeasible if
enjoyed over
40 years.

36. No person shall, acquire a right by prescription to the access and use of light to or for any dwelling-house, workshop or other building; but this section shall not apply to any such right which has been acquired by twenty years' use before the fifth day of March, 1880. 43 V. c. 14, s. 1.

Right to access and use of light by prescription abolished.

37. Each of the respective periods of years in the last preceding three sections mentioned shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into question; and no act or other matter shall be deemed an interruption within the meaning of the said three sections, unless the same has been submitted to or acquiesced in for one year after the party interrupted has had notice thereof, and of the person making or authorizing the same to be made. R. S. O. 1877, c. 108, s. 37.

How the terms shall be calculated, and what acts only shall be an interruption to the prescription.

Imp. Act. 2-3 W. iv, c. 71, s. 4.

38.—(1) In all pleadings wherein the party claiming may now allege his right generally, without averring the existence of such right from time immemorial, such general allegation shall still be deemed sufficient; and if the same is denied, all and every the matters in the next preceding four sections of this Act mentioned and provided which are applicable to the case, shall be admissible in evidence to sustain or rebut such allegation.

What allegation by the party claiming shall be sufficient.

Imp. Act 2-3 W. iv, c. 71, s. 5.

(2) In all pleadings wherein it would formerly have been necessary to allege the right to have existed from time immemorial, it shall be sufficient to allege the enjoyment thereof as of right by the occupiers of the tenement in respect whereof the same is claimed, for and during such of the periods mentioned in this Act as are applicable to the case, and without claiming in the name or right of the owner of the fee as was usually done.

What proof admitted for or against such allegation.

(3) If the other party intends to rely on any proviso, exception, incapacity, disability, contract, agreement or other matter hereinbefore mentioned, or on any cause or matter of fact or of law not inconsistent with the simple fact of enjoyment, the same shall be specially alleged, and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general denial of such allegation. R. S. O. 1877, c. 108, s. 38.

39. In the several cases mentioned in and provided for by this Act, of claims to lights, ways, water-courses or other easements, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R. S. O. 1877, c. 108, s. 39.

No presumption admissible on proof of enjoyment for a less period than prescribed by this Act.

Imp. Act 2-3 W. iv, c. 71, s. 6.

DISABILITIES AND EXCEPTIONS.

1.—*In Cases of Easements.*

Time during which a party could not act not to be computed against him.

Imp. Act 2-3
W. iv, c. 71,
s. 7.

40. The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 34 to 39 inclusive of this Act, is an infant, idiot, *non compos mentis*, or tenant for life, or during which any action has been pending and has been diligently prosecuted until abated by the death of any party or parties thereto, shall be excluded in the computation of the period in said sections mentioned, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R. S. O. 1877, c. 108, s. 40.

Terms of years, etc., excluded from computation in certain cases.

Imp. Act 2-3
W. iv, c. 71,
s. 8.

41. Where any land or water upon, over or from which any such way or other easement, water-course or run of water has been enjoyed or derived, or has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned during the continuance of such term shall be excluded in the computation of the said period of forty years, in case the claim is, within three years next after the end, or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R. S. O. 1877, c. 108, s. 41.

Exception as to lands of the Crown not duly surveyed and laid out.

42. Nothing in sections 34 to 39 inclusive of this Act shall support or maintain any claim to any profit or benefit to be taken or enjoyed from or upon any land of our Sovereign Lady the Queen, Her Heirs and Successors, or to any way or other easement, or to any water-course or the use of any water to be enjoyed or derived upon, over or from any land or water of our said Lady the Queen, Her Heirs and Successors, unless such land, way, easement or water-course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by proper authority. R. S. O. 1877, c. 108, s. 42.

2.—*In cases of Land or Rent.*

In cases of infancy, or lunacy at the time when the right of action accrues, then five years to be allowed from the termination of the disability or previous

43. If at the time at which the right of any person to make an entry or distress, or to bring an action to recover any land or rent, first accrues as in sections 4, 5, and 6 mentioned, such person is under any of the disabilities hereinafter mentioned (that is to say) infancy, idiocy, lunacy or unsoundness of mind, then such person, or the person claiming through him, notwithstanding that the period of ten years or five years (as the case may be) hereinbefore limited has expired, may make an entry or a distress, or bring an action, to recover such land or rent at

any time within five years next after the time at which the person to whom such right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R. S. O. 1877, c. 108, s. 43.

death. Imp. Acts, 3-4, W. iv, c. 27, s. 16; 37-38 V. c. 57, s. 3.

44. No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action to recover any land or rent, first accrued was under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which such right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such twenty years, or although the term of five years from the time at which he ceased to be under any such disability, or died, may not have expired. R. S. O. 1877, c. 108, s. 44.

Twenty years—utmost allowance for disabilities. Imp. Acts, 3-4, W. iv, c. 27, s. 17, 37-38 V. c. 57, s. 5.

45. Where any person is under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rents first accrues, and departs this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the said period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, first accrued or the said period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R. S. O. 1877, c. 108, s. 45.

No further time to be allowed for a succession of disabilities. Imp. Act, 3-4 W. iv, c. 27, s. 18; 37-38 V. c. 57, s. 9.

CHAPTER 112.

An Act to amend the Law of Vendor and Purchaser and to Simplify Titles.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In the completion of any contract of sale of land made after the 10th day of February, 1876, the rights and obligations of vendors and purchasers shall be regulated by the following rules (but subject to any stipulation in such contract to the contrary), namely:—

Rights of vendors and purchasers in contracts of sale of lands.

1. Recitals, statements and description of facts, matters and parties contained in deeds, instruments, Acts of Parliament or statutory declarations twenty years old at the date of the con-

Recital, etc. 20 years old, of facts, etc., prima facie evidence.

tract, shall, unless and except so far as they are proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters and descriptions.

Memorials of
discharged
mortgages.

2. Registered memorials of discharged mortgages shall be sufficient evidence of the mortgages without the production of the mortgages themselves, unless and except so far as such memorials are proved to be inaccurate; and the vendor shall not be bound to produce the mortgages unless they appear to be in his possession or power.

Memorials 20
years old,
when, and of
what evi-
dence.

3. In case of registered memorials twenty years old, of other instruments, if the memorials purport to be executed by the grantor, or in other cases, if possession has been consistent with the registered title, the memorials shall be sufficient evidence without the production of the instruments to which the memorials relate, except so far as such memorials are proved to be inaccurate; and the vendor shall not be bound to produce the original instruments unless they appear to be in his possession or power; and the memorials shall be presumed to contain all the material contents of the instruments to which they relate.

Receipt in a
conveyance.

4. The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, shall not be an objection to the title in case the purchaser will, on the completion of the contract, have an equitable right to the production of such documents. R. S. O. 1877, c. 109, s. 1.

Inability to
furnish cove-
nant to pro-
duce and fur-
nish docu-
ments of title.

Evidence in
actions.

2. In actions it shall not be necessary to produce any evidence which, by section 1 of this Act, is dispensed with as between vendor and purchaser; and the evidence therein declared to be sufficient as between vendor and purchaser shall be *prima facie* sufficient for the purposes of such actions. R. S. O. 1877, c. 109, s. 2. See also Cap. 61, s. 49.

Summary
applications
to High
Court in
respect to
requisitions,
objections or
compensation,
etc.

3. A vendor or purchaser of real or leasehold estate or their representatives respectively may at any time or times and from time to time apply in a summary way to the High Court, or a Judge thereof in respect of any requisitions or objections, or any claim for compensation, or any other question arising out of or connected with the contract (not being a question affecting the existence or validity of the contract); and the Judge shall make such order upon the application as to him appears just, by reference to the Master or otherwise, and shall order how and by whom all or any of the costs of and incidental to the application shall be borne and paid. R. S. O. 1877, c. 109, s. 3.

Costs.

CHAPTER 113.

An Act for Quieting Titles to Real Estate.

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HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

1. This Act may be cited as "*The Quieting Titles Act*," Short title.
R. S. O. 1877, c. 110, s. 1.

2. Any owner of an estate in fee simple in land or any
trustee for the sale of the fee simple, shall be entitled to have his
title judicially investigated and the validity thereof ascertained
and declared; and he shall be so entitled whether he has
the legal estate or not, and whether his title is subject or not
to any charges or incumbrances. R. S. O. 1877, c. 110, s. 2.

Owners, etc.,
in fee simple
may obtain
judicial inves-
tigation of
title.

3. Any other person who has any estate or interest, in
or out of land in Ontario, may also apply for the investi-
gation of his title and a declaration of the validity
thereof; but it shall be in the discretion of the Judge by or

In case of any
other estate;
investigation
to be discre-
tionary with
the Judge.

before whom the proceedings are taken, to grant or refuse the application for the investigation ; and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the Judge in exercising such discretion shall be subject to appeal like any other decision. R. S. O. 1877, c. 110, s. 3.

Attorney-General may apply to quiet title to Crown Lands.

Procedure.

4. Her Majesty's Attorney-General for Ontario may apply, under this Act, for an investigation of the title of the Crown to any lands in Ontario, and a declaration of the validity thereof. The application may be made by information instead of petition, but in other respects the practice and procedure upon such an application shall be the same as in ordinary cases. R. S. O. 1877, c. 110, s. 4.

Form of application and to whom.

5. The application shall be made to the High Court or a Judge thereof, and subject to the provisions of section 4, shall be by a short petition according to the form (No. 1) given in the schedule to this Act. R. S. O. 1877, c. 110, s. 5.

Registry of application.

6.—(1) A certificate by the clerk of records and writs, registrar, or other officer authorized by the Court to sign the same, of the petition being filed, shall be registered in the registry office of the registry division in which the land lies, and this certificate may be according to the form (No 2) given in the schedule to this Act. R. S. O. 1877, c. 110, s. 6.

(2) It shall not be necessary to register a preliminary certificate under this section immediately on the petition being filed, but such certificate shall be filed prior to a certificate of title being granted ; and the certificate of the registrar of the county, as to instruments registered affecting the land, shall be subsequently continued so as to include such preliminary certificate. This subsection shall not apply to the City of Toronto or the County of York. 49 V. c. 23, ss. 3, 6.

How the application must be supported.

7. The application shall be supported by the following particulars :

Title deeds.

1. The title deeds (if any) and evidences of title relating to the land that are in the possession or power of the applicant ;

Registered instruments.

2. A certified copy of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, was given (as the case may be), up to the time of the registering of a certificate of the petition as provided for by section 6 ;

Registrar's certificate.

3. The certificate of the registrar of the county or other registry division in which the land lies, as to actions and proceedings relating to the land, and of which a certificate has been registered in his office ;

4. A concise statement of such facts as are necessary to make out the title, and which do not appear in the produced documents; but no abstract of produced documents shall be required except on special grounds; Statement of facts.

5. Proofs of any facts which are required to be proved in order to make out the title, and which are not established by the other produced documents, unless the Judge dispenses with such proofs until a future stage of the investigation; Proof of facts.

6. An affidavit or deposition by the person whose title is to be investigated and a certificate of one of his counsel or solicitors, to the effect hereinafter respectively mentioned, unless the Judge sees fit, for some special reason, to dispense with the same respectively; Affidavit and certificate of counsel, etc.

7. A schedule of the particulars produced under this section. Schedule.
R. S. O. 1877, c. 110, s. 7.

8.—(1) The affidavit or deposition of the person whose title is to be investigated shall state to the effect, that to the best of his knowledge and belief he is the owner of the estate or interest (whatever it is) which is claimed by the petition, subject only to the charges and incumbrances set forth in the petition or in the schedule thereto, or that there is no charge or incumbrance affecting the land; that the deeds and evidences of title which he produces, and of which a list is contained in the schedule produced under the next preceding section, are all the title deeds and evidences of title relating to the land that are in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any, except what he sets forth; and the affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title; and shall state that to the best of the deponent's knowledge, information and belief, the said affidavit or deposition, and the other papers produced therewith, fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the same or any part thereof, or give any right as against the applicant. What the affidavit or deposition of the applicant must state.

(2) The said affidavit or deposition may, in a proper case, be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by one person, and as to part by another, at the discretion of the Judge to whom the application is made; and in such case the affidavit shall be modified accordingly. As to adverse claims or possession etc.,
In certain cases it may be dispensed with or made by another person.
R. S. O. 1877, c. 110, s. 8.

What the certificate of counsel or solicitor must state.

9. The certificate of the counsel or solicitor shall state to the effect that he has investigated the title, and believes the party to be the owner of the estate which the petition claims in the land in question, subject only (if such is the case) to any charges or incumbrances that may be set forth in the schedule to the petition (or that he so believes, subject to any condition, qualification or exemption to be set forth in the certificate); and that he has conferred with the deponent on the subject of the various matters set forth in the affidavit or deposition referred to in the next preceding two sections, and believes the affidavit or deposition to be true. R. S. O. 1877, c. 110, s. 9.

On what evidence Judge may proceed.

10.—(1) The Judge in investigating the title may receive and act upon any evidence that is now received by the High Court on a question of title, and any evidence which the practice of English conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of the English conveyancers, provided the same satisfies the Judge of the truth of the facts intended to be made out thereby.

Evidence in proceedings to quiet titles.

(2) It shall not be necessary to produce any evidence which, by section 1 of *The Act to amend the law of Vendor and Purchaser and to Simplify Titles*, is dispensed with as between vendor and purchaser, nor to produce or account for the originals of any registered deeds, documents or instruments, unless where the Judge before whom the investigation is had, otherwise directs. R. S. O. 1877, c. 110, s. 10.

Rev. Stat. c. 112.

Form of proofs.

11. The proofs required may be by, or in the form of affidavits or certificates; or may be given *viva voce*; or may be in any other manner or form that under the circumstances of the case is satisfactory to the Judge in regard to the matters to which the same relate. R. S. O. 1877, c. 110, s. 11.

Taxes must have been paid.

12. Before a certificate of title is granted, satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments, for which the land is liable, have been paid, or that all, except those for the current year, have been paid. R. S. O. 1877, c. 110, s. 12.

Further proof, if Judge not satisfied.

13. If the Judge is not satisfied with the evidence of title produced in the first instance, he shall give a reasonable opportunity of producing further evidence, or of removing defects in the evidence produced. R. S. O. 1877, c. 110, s. 13.

Judge to order notice to be published.

14. Before giving a certificate or conveyance under this Act the Judge shall direct to be published in the *Ontario Gazette*, and if he sees fit in any other newspaper or newspapers, and in such form, and for such period or periods as the Judge thinks expedient, a notice either of the application being made, or of

the order or decision of the Judge thereon ; and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Judge may appoint. R. S. O. 1877, c. 110, s. 14.

15. Where the Judge is satisfied respecting the title, and considers that the certificate of title can safely be granted without any other notice of application than the published notice so required, he shall grant the certificate accordingly. Judge may grant certificate without further notice. R. S. O. 1877, c. 110, s. 15.

16. In case there appears to exist any claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the Judge shall direct such notice as he deems necessary to be mailed to or served on the adverse claimant, his agent or solicitor. Notice to adverse claimant. R. S. O. 1877, c. 110, s. 16.

17. In all cases the Judge may require from time to time any further publication to take place, or any other notice to be mailed or served that he deems necessary before granting the certificate. Further publication or service of notice. R. S. O. 1877, c. 110, s. 17.

18.—(1) Any person having an adverse claim, or a claim not recognized in the applicant's petition, may at any time before the certificate of title is granted, file and serve on the applicant, his solicitor or agent, a short statement of his claim, which may be according to the form (No. 3) given in the schedule to this Act. Adverse claimants to file statements.

(2) The said claim shall be verified by an affidavit to be filed therewith. Verification. R. S. O. 1877, c. 110, s. 18.

19. In case of a contest, the Judge may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to a Divisional Court, or to any mode of investigation which is usual in other cases, or which he deems expedient, and may defer granting the certificate until afterwards, according as the circumstances of each case render just or expedient. In case of contest, Judge may decide or refer the case. R. S. O. 1877, c. 110, s. 19.

20. The Judge may, at any stage of the cause, order security for costs to be given by the applicant for a certificate, or by any person making any adverse claim. Security for costs. R. S. O. 1877, c. 110, s. 20.

21. The Judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any person party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid. Payment of costs. R. S. O. 1877, c. 110, s. 21.

Withdrawal
of application.

22. The petitioner may by leave of the Judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by any adverse claimant. R. S. O. 1877, c. 110, s. 22.

Petition may
be referred to
Master or
counsel.

23. With a view of expediting investigations, and subject to any General Rules in this behalf, the Judge, if he sees fit, may refer any petition presented under this Act to the Master or a Deputy Master or any other officer of the said Court, or to any counsel named by the Judge, and in such case the referee shall proceed as the Judge himself should do under this Act, had the reference not been made, and shall have the same powers. R. S. O. 1877, c. 110, s. 23.

Judge may re-
quire report
of counsel.

24. The Judge may also refer any title to counsel named by the Judge, for a preliminary report or examination, and may call for the assistance of counsel in any other way and for any other purpose that may tend to the dispatch of business under this Act. R. S. O. 1877, c. 110, s. 24.

One certificate
or several.

25. The Judge may give one certificate of title, comprising all the land mentioned in the petition, or may give separate certificates as to the title of separate parts of the land. R. S. O. 1877, c. 110, s. 25.

Claims of title
to be presumed
to be made
with certain
exceptions.

26.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications, unless the petition for investigation expressly alleges the contrary :

- (a) The reservations (if any) contained in the original grant from the Crown ;
- (b) Any municipal charges, rates or assessments theretofore imposed for local improvements, and not yet due and payable ;
- (c) Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land mentioned in the certificate ;
- (d) Any lease or agreement for a lease, for a period yet to run, of not exceeding three years, where there is actual occupation under the same. R. S. O. 1877, 110, s. 26 (1).
- (e) Any public highway, any right of way, watercourse and right of water, and other easements.
- (f) Any right of the wife or husband of the applicant to dower or curtesy (as the case may be) in case of surviving such applicant.

The last preceding two clauses shall not apply to the City of Toronto or the County of York: 49 V. c. 23, ss. 5, 6.

(2) If, however, the applicant desires the certificate to declare the title to be free from the said particulars, or any of them, his petition shall so state, and the investigation shall proceed accordingly. R. S. O. 1877, c. 110, s. 26 (2). But claim may be without exceptions.

27. The certificate of title shall be according to the form (No. 4) given in the schedule to this Act, and shall be under the seal of the Court, and shall be signed by one of the Judges and by one of the Registrars of the High Court, and the same and the schedule (if any) thereto, or a duplicate or counterpart of the same shall be registered in full, both in the High Court, and in the registry office of the registry division where the land lies, without any further proof thereof.

R. S. O. 1877, c. 110, s. 27.

Form of certificate of title.

28. A memorandum or certificate of the registration may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus :

“Registered in _____ 18 _____, Book _____
 Page _____, _____
 _____ A. H., _____
 Clerk of Records and Writs (or as the case may be).

 $O\tau,$

“Registered in the Registry Office for the County (or as the case may,
be), of Book , Page , (Date)
A. C., Registrar.”

and a memorandum or certificate so signed shall be evidence of the registration mentioned therein. R. S. O. 1877, c. 110, s. 28.

29. The certificate of title when so sealed, signed and registered, shall be conclusive and the title therein mentioned shall be deemed absolute and indefeasible, from the day of the date of the certificate, as regards Her Majesty and all persons whatever, subject only to any charges or incumbrances, exceptions or qualifications mentioned therein, or in the schedule thereto, and shall be conclusive evidence that every application, notice, publication, proceeding, consent and act whatsoever, which ought to have been made, given and done previously to the granting of the certificate, has been made, given and done by the proper parties. R. S. O. 1877, c. 110, s. 29.

30. After a certificate of title is duly registered, a copy of the certificate, purporting to be signed and certified as such copy by one of the registrars of the High Court, or by the registrar of the registry division in which the land lies, shall be admissible evidence of the certificate for all purposes whatsoever, without further evidence of such copy, and without accounting for the non-production of the certificate. R. S. O. 1877, c. 110, s. 30.

Conveyance
by the Court
in case of sale.

31.—(1) In case of a sale by the High Court the Court, if it thinks fit, may investigate the title with a view to granting an indefeasible title, and in that case, a conveyance executed to the purchaser, under the seal of the Court and purporting to be under the authority of this Act, shall have the same conclusive effect as a certificate.

Form.

(2) The conveyance may be according to the form (No. 5) given in the schedule to this Act. R. S. O. 1877, c. 110, s. 31.

Where an in-
defeasible title
is contracted
for.

32. Where judgment is given for the specific performance of a contract for the sale of an estate, and it is part of the contract that the vendor shall have an indefeasible title, the Court shall make the like investigation, and the conveyance may be according to the form (No. 5) aforesaid. R. S. O. 1877, c. 110, s. 32.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES.

Right to judi-
cial investiga-
tion of some
fact, which
may affect a
title.

33. In case a person domiciled in Ontario, or claiming any real estate in Ontario, desires to establish, not his title to some specific property, but generally that he is the legitimate child of his parents, or that the marriage of his father and mother, or of his grandfather and grandmother, was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir, or one of the co-heirs of any person deceased, or that he is a natural born subject of Her Majesty, he may if the said Court thinks fit, have any of the said matters judicially investigated and declared. R. S. O. 1877, c. 110, s. 33.

Application.

34. The application may be by a short petition stating the object of the application. R. S. O. 1877, c. 110, s. 34.

How the peti-
tion must be
supported.

35. The petition shall be supported by an affidavit of the applicant verifying the statements of the petition, and stating further that his claim is not disputed or questioned by any person; or if his claim is to his knowledge disputed or questioned, he shall set forth the facts in relation to such dispute or question, and shall depose that he is not aware of any dispute or question except what he has set forth, and he shall state in the affidavit such other facts as may satisfy the Court of the propriety of proceeding with the investigation. R. S. O. 1877, c. 110, s. 35.

Investigation,
proof, etc., in
such case.

36. The investigation shall be made by the same judicial authority, and in the same manner, and on the same evidence, and the same publication or other notice shall be required, and the same proceedings generally shall be had, and the certificate granted on such investigation shall be registered in the same way, and may be proved by the same evidence, as nearly as may be respectively, as in cases under section 2 of this Act. R. S. O. 1877, c. 110, s. 36.

37. Such certificate when registered shall be conclusive and indefeasible in favour of the party on whose application the same was granted, and all persons claiming by, from, through or under him, and shall be *prima facie* evidence in favour of all other persons, and against all persons of the truth of the fact therein declared. R. S. O. 1877, c. 110, s. 37.

Effect of certificate.

38. A separate book shall be kept in the High Court for the registering of these and other certificates of title, and conveyances given under this Act, and the certificates and conveyances registered therein shall be numbered in order, and convenient indexes to the book shall be kept in such form as the Court from time to time directs. R. S. O. 1877, c. 110, s. 38.

Register to be kept.

39. In case any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is a minor, an idiot or a lunatic, the guardian of the minor, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act; and if the minor has no guardian, or the idiot or lunatic no committee of his estate the Court or Judge may appoint a person with like power to act for the minor, idiot or lunatic; but a married woman shall, for the purposes of this Act, be deemed a *feme sole*. R. S. O. 1877, c. 110, s. 39.

Where any party is a minor, lunatic, etc.

Married women.

40. After a certificate is granted in regard to any of the matters investigated under this Act, any party aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, have the title or claim re-investigated on such terms as may be just. R. S. O. 1877, c. 110, s. 40.

Re-investigation at the instance of any party aggrieved.

41. No proceeding on such petition shall affect the title of any person who, in the meantime, and after the registration of the certificate, has acquired, by sale, mortgage or contract, for valuable consideration, any estate or interest in the land specified in the certificate of title, or (in case the certificate was under section 33 of this Act) in any land or other property, the title to which was derived from, through or under the person named in the certificate, in the character which is thereby declared to belong to him. R. S. O. 1877, c. 110, s. 41.

But those who have purchased, etc., in the meantime not to be affected.

APPEALS.

42. An appeal shall lie from any order or decision of a Judge under this Act to a Divisional Court, or to the Court of Appeal, and from any order or decision of the Divisional Court to the Court of Appeal, as in the case of actions. R. S. O. 1877, c. 110, s. 42.

Appeals.

MISCELLANEOUS.

No objections to proceeding to establish title that petitioner should first have brought an action.

43. Where a petition is filed under this Act, no objection thereto shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the real property the title to which is sought to be quieted under this Act, he may obtain an order against the respondent for the delivery of possession thereof, and writs of execution shall issue accordingly. R. S. O. 1877, c. 110, s. 43.

Proceedings not abated by certain events.

44. Proceedings under this Act shall not abate or be suspended by any death or transmission or change of interest, but in any such event the Court or Judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto, as under the circumstances may be just. R. S. O. 1877, c. 110, s. 44.

Proceedings not void for want of form.

45. No petition, order, affidavit, certificate, registration or other proceeding under this Act shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R. S. O. 1877, c. 110, s. 45.

How this Act shall be construed.

46. The foregoing provisions of this Act shall be so construed and carried out as to facilitate, as much as possible, the obtaining of indefeasible titles by the owners of estates in land, through the simplest machinery, at the smallest expense, and in the shortest time, consistent with reasonable prudence in reference to the rights or claims of other persons. R. S. O. 1877, c. 110, s. 46.

Certificate to be void if obtained by fraud.

47. If in the course of any proceeding before the Court under this Act, any person acting either as principal or agent, knowingly and with intent to deceive, makes, or assists, or joins in, or is privy to the making of any material false statement or representation, or suppresses, conceals, or assists, or joins in, or is privy to the suppression, withholding, or concealing from the Court any material document, fact or matter of information, any order or declaration of title obtained by means of such fraud or falsehood, shall be null and void for or against all persons other than a purchaser for valuable consideration without notice. R. S. O. 1877, c. 110, s. 47.

Exception.

Conviction for fraud not to affect other remedy.
29 V. c. 25,
s. 48.

48. No proceeding or conviction for any contravention of section 47 of this Act, or under section 48 of chapter 25 of the Acts passed in the twenty-ninth year of Her Majesty's reign, shall affect any remedy which any person aggrieved by such contravention may be entitled to, against the person who has committed the same. R. S. O. 1877, c. 110, s. 48.

49.—(1) A Judge or Referee under this Act shall, in respect of any petition before him, have the like powers as the Master of Titles has under *The Land Titles Act*. 49 V. c. 23, s. 1.

Power of Judge or Referee.
Rev. Stat. c. 116.

(2) The rules and procedure enacted by *The Land Titles Act*, or any rules hereafter made, shall apply, so far as may be, to proceedings under this Act. This does not include any rules to be hereafter made which shall thereby be declared not so to apply. 49 V. c. 23, s. 2.

Rules and procedure under c. 116 to apply to proceedings.

(3) Nothing in this section contained shall be construed to dispense with supervision over Referees by the Inspector of Titles, or to prevent further rules being enacted in respect thereof. 49 V. c. 23, s. 4.

Supervision over Referees.

(4) The next preceding three sub-sections shall not apply to the City of Toronto or the County of York. 49 V. c. 23, s. 6.

Application of this section.

50. The said Court acting under section 107 of *The Judicature Act* may from time to time, make General Rules for referring all or any applications under this Act, to any Master, local Master or other officer of the Court, or to any counsel or other person appointed by the Court, in that behalf, and to regulate the fees to be paid on such reference; and the referee shall have the same powers as a Judge within the limits prescribed by such General Rules; and the Court may also, from time to time, make other General Rules for the purposes of this Act, and for regulating the practice under the same; and all General Rules made in pursuance of this section may, from time to time, be rescinded or altered by the said Court. R. S. O. 1877, c. 110, s. 49.

Court may make General Rules for carrying out this Act.

Rev. Stat. c. 44, s. 107.

SCHEDULE OF FORMS.

FORM 1.

(Section 5.)

FORM OF PETITION TO QUIET A TITLE.

In the High Court of Justice.

In the matter of (*the East half of lot No.* *in the*
Concession in the Township of *or as the case may be, describing*
the property very briefly).

To the Honourable the Judges of the High Court of Justice for Ontario.

The Petition of

SHREWETH,—

That your Petitioner is absolute owner in fee simple in possession (*or as the case may be*) of the following property (*describing it.*)

That there is no charge or other incumbrance affecting your Petitioner's title to the said land, (except, &c., or that your Petitioner's title is subject only to the charges or incumbrances in the Schedule hereto mentioned, and that the only persons having or claiming any charge, incumbrance, estate, right or interest in the said land are set forth in the Schedule hereto annexed, and that the charge, incumbrance, estate, right or interest belonging to or claimed by each is therein set forth.) Your Petitioner therefore prays that his title to the said land may be investigated and declared under *The Quieting Titles Act*.

(Signed)

A. B.,

or

C. D., Solicitor for A. B.

R. S. O. 1877, c. 110, Sched. Form 1.

FORM 2.

(Section 6.)

FORM OF CERTIFICATE OF AN APPLICATION UNDER THIS ACT.

I certify that an application has been made by _____ to the High Court of Justice for Ontario, under *The Quieting Titles Act*, for a certificate of title to the following lands [*stating them*].

A. H.,

Clerk of Records and Writs.

R. S. O. 1877, c. 110, Sched. Form 2.

FORM 3.

(Section 18.)

FORM OF AN ADVERSE CLAIMANT'S STATEMENT.

In the matter of, &c., (*as in petition*).

A. B., of, &c., claims to be the owner of the said land, &c., &c. (*stating very briefly the nature of the claim and the grounds of it*). Dated this day of _____, 18__.

(Signed)

A. B.,

or

C. D., Solicitor for A. B.

R. S. O. 1877, c. 110, Sched. Form 3.

FORM 4.

(Section 27.)

FORM OF CERTIFICATE OF TITLE.

No. —

These are to certify under the authority of *The Quieting Titles Act*, that *A. B.* is the legal and beneficial owner in fee simple in possession (or as the case may be) of all, etc [here describe the property], subject to the reservations mentioned in section 26 of the said Act, and therein numbered respectively (a), (b), (c) and (d) (or as the case may be), and to (specifying either by reference to a schedule or otherwise any of the charges or incumbrances, exceptions or qualifications to which the title of *A. B.* is subject), but free from all other rights, interests, claims and demands whatever. [Or that (stating the facts found and declared under section 33 of this Act, and stating on whose application the same are declared.)]

In witness whereof
the Division, or one of the Justices) of the said Court has hereunto set his hand, and the seal of the Supreme Court has been hereunto affixed, this day of

G. S. H.,
Registrar.

J. A. B. [L. S.]

R. S. O. 1877, c. 110, Sched. Form 4.

FORM 5.

(Section 31 (2) and 32.)

FORM OF DEED BY HIGH COURT.

No. —

The High Court of Justice for Ontario, under the authority of *The Quieting Titles Act*, doth hereby grant unto *A. B.*, etc., [here describe the premises sold] to hold the same unto the said his heirs and assigns for ever (or as the case may be), subject to [here specify as in the case of a certificate of title.]

In witness whereof
hereunto set his hand, and the seal of the Supreme Court has been hereto affixed, this day of , in the year of Our Lord

G. S. H.,
Registrar.

J. A. B. [L. S.]

R. S. O. 1877, c. 110, Sched. Form 5.

CHAPTER 114.

An Act respecting the Registration of Instruments relating to Lands.

SHORT TITLE, s. 1.	REGISTRATION OF INSTRUMENTS IN FULL WHEN MEMORIALS PREVIOUSLY REGISTERED, s. 68.
INTERPRETATION, s. 2.	DISCHARGES OF MORTGAGES, ss. 69-74.
REGISTRY OFFICES, ss. 3-5.	BY-LAWS, s. 75.
REGISTRARS AND DEPUTIES :	EFFECT OF REGISTERING OR OMITTING TO REGISTER, ss. 76-83.
Appointment, security of, &c., ss. 6-19.	Unregistered instruments after grant from the Crown void against subsequent registered purchaser, s. 76.
Duties, ss. 20-24.	Willstoberegistered within twelve months after death, s. 77.
BOOKS OF OFFICE—	Deeds on sales for taxes, ss. 78, 79.
To be furnished by County, ss. 25-27.	Registration as notice, ss. 80-82.
Transfer of, upon alteration in limits of the Registry Division or removal of Registrar, ss. 28-30.	Equitable liens invalid as against registered instruments, s. 83.
Copies of, when too old for use, s. 31.	Tacking not allowed as against registered instruments, s. 83.
ABSTRACT INDEX, s. 32.	REGISTRATION OF PLANS, ss. 84-88.
ALPHABETICAL INDEX, s. 33.	PROVISIONS FOR RE-REGISTRATION IN CASE OF LOSS, ETC., OF REGISTRY BOOKS, s. 89.
INSTRUMENTS THAT MAY BE REGISTERED, ss. 34, 35.	DEFECTS IN REGISTRATION, ss. 90-93.
PROOF FOR REGISTRATION ss. 36-54.	LIST OF PATENTS TO BE FURNISHED TO REGISTRAR, s. 94.
REGISTRATION OF LEGAL PROCEEDINGS, ss. 48, 49.	FEES OF REGISTRARS, ss. 95-108.
MANNER OF REGISTERING, ss. 55-61.	INSPECTOR OF REGISTRY OFFICES, ss. 109, 110.
REGISTRATION OF—	
Crown grants, s. 62.	
Orders in Council, s. 63.	
Wills, s. 64.	
Other instruments, s. 65.	
Instruments executed before 1st Jan. 1866, ss. 66-67.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title. **1.** This Act may be cited as "*The Registry Act.*" R. S. O. 1877, c. 111, s. 1.
- Interpretation. **2.** Where the following words occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—
- "Instrument." **1.** "Instrument" shall include every Crown grant, Order in Council of the Dominion or of this Province, deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of

attorney, or substitution thereof, under which any such deed, conveyance, assurance, discharge of mortgage or other instrument is executed, bonds or agreements for sale or purchase of land, letter of attorney, will, probate of will, grant of administration with the will annexed, municipal road by-law, certificate of any proceedings in any Court, judgment of foreclosure, and every other certificate or judgment of any Court affecting any interest in or title to land; also, certificates of payment of taxes granted under the corporate seal of the county, city, or town by the treasurer; every sheriff's and treasurer's deed of lands sold by virtue of his office; every contract in writing; every commission and proceeding in lunacy, bankruptcy and insolvency; and every other instrument whereby lands or real estate may be transferred, disposed of, charged, incumbered or affected in any wise, affecting land in Ontario.

2. "Land" shall include lands, tenements, hereditaments, "Land," appurtenances and real estate.

3. "Will" shall include probate of will and exemplification, "Will," or notarial copies of probate of will, and letters of administration with the will annexed, and any devise whereby lands are disposed of or affected.

4. "County" shall include a union of counties, a city, "County," junior county and any part of a county or counties set apart for judicial or registration purposes. R. S. O. 1877, c. 111, s. 2.

REGISTRY OFFICES.

3. The Registry Divisions at present existing are hereby continued; and whenever any county is separated for judicial purposes from a union of counties, or a new county is formed and set apart for judicial purposes there shall be a separate Registry Office established therein, by the Lieutenant-Governor in Council, which office shall be kept in the county town in like manner as in other county towns. R. S. O. 1877, c. 111, s. 3; 48 V. c. 2, s. 13.

In and for
what places
there shall be
Registry
Offices.

4. Where the Registry Office in any Division appears to the Lieutenant-Governor in Council to be inconveniently situated, he may by proclamation order the same to be removed to any other place in the Division. R. S. O. 1877, c. 111, s. 4.

Registry Office
may be re-
moved.

5. For the safe-keeping and protection of all books, memorials, duplicates, and other instruments of whatever description, and plans, belonging to the office of Registrar, the council of every county where, at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where hereafter any Registry Office is established, shall provide, furnish and maintain, and keep in good repair, a safe and fire-proof Registry Office, fire-proof vaulted, upon a plan and on a site to be approved by the Lieutenant-Governor

County Councils
to provide
fire-proof
offices and
vaults.

in Council; and the said council shall keep the said Registry Office furnished with fuel and furniture and in good repair, and towns separated from counties for municipal purposes, and cities in which no separate Registry Offices exist, shall bear a ratable proportion of the expense thereof, based on the assessment of all the municipalities within the jurisdiction of the county. R. S. O. 1877, c. 111, s. 5.

REGISTRARS.

Registrars.

6. Every Registry Office shall be kept by an officer to be called the Registrar. R. S. O. 1877, c. 111, s. 6.

Registrars,
how appoint-
ed, etc.

7. The Lieutenant-Governor shall, as occasion may require from time to time, by commission, under the Great Seal of the Province, appoint a fit person to the office of Registrar, and shall, in like manner, fill up any vacancy occurring by the death, resignation, removal or forfeiture of office by any Registrar, and every Registrar heretofore appointed or hereafter to be appointed shall hold office during pleasure only. R. S. O. 1877, c. 111, s. 7.

Amount of
security to be
given.

8. The Lieutenant-Governor may from time to time by Order in Council fix and determine the amount of the security to be given, as hereinafter mentioned, by each Registrar; but the amount of such security shall be not less than \$4,000, nor more than \$10,000. R. S. O. 1877, c. 111, s. 8.

[As to security of Registrars in the unorganized Districts. See Cap. 91, s. 36.]

Security to be
given by
Registrars.

9.—(1) Subject to the provisions of section 24 of *The Act respecting Public Officers*, before any Registrar is sworn into office, he shall execute and enter into a joint and several covenant in duplicate with two or more sufficient sureties to be approved by the Lieutenant-Governor in Council for such amounts as may be fixed and determined by Order in Council in that behalf as aforesaid.

Rev. Stat. c.
15, s. 24.

(2) Such covenant may be in the form of Schedule A to this Act, or to the like effect; and to each of such covenants shall be attached an affidavit in the form of Schedule B to this Act, or to the like effect, made by each of the sureties therein mentioned.

(3) One of the duplicates with the affidavits appended shall be forthwith transmitted to the Provincial Secretary, to be by him retained, and the other duplicate with the affidavits aforesaid, shall be by the Registrar forthwith filed in the office of the Clerk of the Peace for the said county or union of counties where the same shall remain of record. R. S. O. 1877, c. 111, s. 9.

10. The Registrar, whether appointed before or after the passing of this Act, may at any time be required by the Inspector of Registry Offices, with the approval of the Lieutenant-Governor in Council, to execute new covenants in the form and to the effect hereinbefore provided, or to furnish other sureties as may be deemed expedient, or both, and in default thereof shall be subject to the penalties mentioned in section 21 of this Act. R. S. O. 1877, c. 111, s. 10.

New covenants may be required by Inspector.

11. Any person may examine and obtain a copy of the Registrar's covenant and affidavits on payment to the Clerk of the Peace of a fee for the copy and search, of one dollar, or for the search, of twenty-five cents. R. S. O. 1877, c. 111, s. 11.

Copies may be obtained by any person.

12. Sections 15 to 20 inclusive of *The Act respecting Public Officers*, shall apply to securities given by Registrars. R. S. O. 1877, c. 111, s. 12. See also Cap. 15, ss. 24-27.

Sections 15-20 of c. 15 to apply to securities.

13. The Lieutenant-Governor, upon the application of any county or city interested, or without such application if he thinks fit, may require any Registrar to give security in such form and for such an amount as the Lieutenant-Governor in Council determines to be sufficient to secure the due payment of any moneys payable by the Registrar to the county or city. R. S. O. 1877, c. 111, s. 13.

Lieutenant-Governor may require Registrars to give security.

14.—(1) A surety for a Registrar who is no longer disposed to continue his responsibility, may give notice thereof to the Registrar and to the Provincial Secretary, and in such case the Registrar shall, under penalty of forfeiture of his office, furnish a new surety in lieu of the surety so giving notice, and shall complete and transmit the necessary covenant in that behalf to the Provincial Secretary within one month after the notice, and shall procure the approval of the new security within two months after the notice.

Sureties of Registrars

(2) All accruing responsibility on the part of the person giving the notice shall continue until the perfecting and approval of the new security, and shall thereupon cease. R. S. O. 1877, c. 111, s. 14.

15. The Registrar and his sureties shall be jointly and severally liable on their covenant to any aggrieved person or persons to indemnify him or them against any damage or loss sustained by him or them, by or through the neglect or misconduct of the Registrar or his deputy in the performance of the duties of his office, not exceeding the penalty named therein, but this provision shall not exempt the Registrar from any further responsibility to persons sustaining damage or loss as aforesaid. R. S. O. 1877, c. 111, s. 15.

Liability of Registrars and their sureties.

16. Every Registrar, before he enters upon the execution of his office shall, before two or more Justices of the Peace for the

Registrar's oath of office.

county, take the oath given in the form of Schedule C. to this Act, which shall be transmitted to the Provincial Secretary, together with the recognizance and covenant aforesaid. R.S.O. 1877, c. 111, s. 16.

Appointment
of Deputies.

17. The Registrar may by writing under his hand and his seal of office, nominate a deputy or deputies in his office, who may perform all the duties required under this Act, in the same manner and to the like effect as if done by the Registrar;

Removal.

and any Registrar may remove his deputy and appoint another in his place whenever he thinks it necessary; and in case of the death, resignation, removal or forfeiture of office of the Registrar, the Deputy Registrar, or in case of there being more than one, the senior Deputy Registrar, shall do and perform all and every act, matter, and thing necessary for the due execution of the said office, until a new appointment of Registrar is made by the Lieutenant-Governor. R. S. O. 1877, c. 111, s. 17.

Power of Deputy
in case of
death or
removal of
Registrar.

Deputy's oath
of office.

18. Every Deputy Registrar before he enters on the execution of his office, shall, before two or more Justices of the Peace for the county take the oath appointed to be taken by the Registrar, or an oath to the like effect, which oath shall be forthwith transmitted to the Provincial Secretary. R. S. O. 1877, c. 111, s. 18.

Registrars or
Deputies, etc.,
not to act as
agents, for
persons taking
securities on
real estate, or
advise as to
titles, etc., in
their Com-
munities.

19. No Registrar or Deputy Registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation, society, company, person or persons investing money and taking securities on real estate within his county, nor shall the Registrar or Deputy Registrar, or clerk in the office advise, for fee or other reward, or otherwise, upon titles of land, or practise as a conveyancer, within his county, nor shall he carry on or transact within the Registry Office, any other business or occupation whatever, upon pain of forfeiture of office. R. S. O. 1877, c. 111, s. 19.

DUTIES OF REGISTRARS.

Residence of
Registrars.

20. Every Registrar shall reside within ten miles of his office, and shall keep his office at the place named in his commission or otherwise as appointed by the Lieutenant-Governor in Council, or by any Act in force respecting the same. R. S. O. 1877, c. 111, s. 20.

Removal for
misconduct.

21. If the Registrar in any manner misconducts himself in his office or neglects to perform his duty in every respect, as required of him by this Act, or commits or suffers to be committed any undue or fraudulent practice in the execution thereof, then the Registrar may, at the discretion of the Lieutenant-Governor in Council, be dismissed, and he shall, moreover, together with his sureties, so far as their covenants extend, be

Liability of
Registrar.

liable to pay all damages, with full costs of suit, to any person injured thereby, to be recovered by action in the High Court; and any deputy executing the office of Registrar during any vacancy by death, resignation, or forfeiture of the Registrar, shall, together with the sureties of the Registrar as far as their covenants extend, be for the same cause, and in like manner liable as the Registrar and his sureties are in this section declared to be liable. R. S. O. 1877, c. 111, s. 21.

And or Deputy
executing
office.

22. The Registrar or his deputy shall, for the discharge of all duties belonging to the said office attend at his office from the hour of ten in the forenoon until four in the afternoon, every day in the year, holidays excepted, and no instrument shall be registered by him on any holiday, nor shall any instrument be received for registration by him except within the hours above named. R. S. O. 1877, c. 111, s. 22.

Hours of at
tendance at
office.

23. The Registrar shall, when required, and upon being tendered the legal fees for so doing, make searches and furnish copies and abstracts of or concerning all instruments or memorials registered, mentioning any lot of land as described in the patent thereof from the Crown, or any lot, described by number or letter on any registered map or plan, subsequent to the registration of the map or plan, or any part of a lot where the same is clearly described and can be identified in connection with the chain of title, or has been ascertained by actual survey; and of and concerning all wills, deeds, orders, or other instruments recorded, as may be requested of him in writing, if a writing is demanded by the Registrar; and he shall exhibit the original registered instrument, and also the books of the office relating thereto when the party desires to make a personal inspection thereof, and shall give certificates of all copies and extracts under his hand of and concerning the parties to any of such documents, or of the witnesses to the same, or any other particulars which may be required, but no Registrar shall allow any such book or instrument to be taken out of his possession or custody. R. S. O. 1877, c. 111, s. 23.

Registrars to
make searches
and abstracts.

To exhibit ori-
ginals of in-
struments, etc.

To certify
copies, etc.

24. Every Registrar under this Act shall have a seal of office, to be approved of by the Inspector, and on request of any person or persons, body corporate or otherwise, shall furnish an exemplification or certified copy under his hand and seal of office, of any instrument or memorial deposited, registered, or filed, and kept in his office as Registrar, which exemplification or certified copy shall be received as *prima facie* evidence in every Court in Ontario, in the same manner and with the same effect as if the original thereof, in his office, was produced; and no Registrar or Deputy Registrar shall be required to produce any paper in his custody as Registrar or Deputy Registrar, unless ordered by a Judge of one of the Courts of Ontario, which order shall be

Registrar to
have a seal of
office.

Not bound to
produce any
papers, except
on order of a
Judge.

produced to the officer issuing the subpoena requiring such production, and shall be by him noted in the margin of the subpoena, and signed by such officer. R. S. O. 1877, c. 111, s. 24. *See also* Cap. 61, s. 43.

BOOKS OF OFFICE.

Treasurer to provide proper books.

25. The treasurer of the county or city shall provide a fit and proper registry book for each township, reputed township, city, town, town plot laid out by the Crown, and incorporated village, the limits whereof are defined by law, and all index and other books required for the business of the office; and all registry books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size or nearly so; and from the time the books are so provided and received at the Registry Office, the person who holds and executes the office of Registrar, shall keep and cause to be used for that purpose, a separate registry book for and of each township, reputed township, city, town, town plot laid out by the Crown, and incorporated village, the limits whereof are defined by law, within the county, for which he holds office; and he shall also keep and cause to be used for that purpose a general registry book for the whole county, in which shall be recorded all wills and instruments in which there is a general devise, conveyance or power affecting lands without local description, and in which book an alphabetical index of the names of all the parties mentioned by name in such instrument shall also be kept; and whenever any Registrar requires a new registry book, or any other book for the use of his office, the same shall, on his application therefor, in writing, be furnished to him by the treasurer, and all books so furnished shall be paid for by the treasurer out of the county or city funds as the case may be; and all books so furnished, used and kept, shall be deemed to be the property of Her Majesty for the use and benefit of the public; and the Inspector shall have power, when, for the despatch of business, he finds it necessary, by order in writing, to permit more than one registry book to be in use at the same time for the same municipality. R. S. O. 1877, c. 111, s. 25; 49 V. c. 16, s. 26.

General Registry.

New books.

If the Treasurer neglects to provide books.

26. If the treasurer refuses or neglects to furnish such books within thirty days after application therefor, the Registrar may provide the same and recover the cost thereof from the municipality of the county or city in default. R. S. O. 1877, c. 111, s. 26.

County Judge, Warden or Stipendiary Magistrate to certify books.

27. The Judge of the County Court or Warden of the county, or Mayor of a city, or the Stipendiary Magistrate of the district shall give a certificate respecting each registry or other book, so furnished or provided, in the form of Schedule

D to this Act, or to the like effect, and in case of refusal shall be liable to the same penalties as are imposed by section 30 of this Act. R. S. O. 1877, c. 111, s. 27; 49 V. c. 16, s. 27.

28.—(1) Where any county, city, town, town plot laid out by the Crown, incorporated village, township, reputed township or place, making part of a county wherein a separate Registry Office is or has been kept, is or has been detached from some union or county and set apart for registration purposes, or attached to or made part of another county for which a separate Registry Office is also kept, or where a separate Registry Office is established in any county or junior county, according to the provisions of this Act, the Registrar of the county from which such localities are so detached, shall deliver to the Registrar of the county set apart, or of the county whereunto the same is attached, the registry book [or books and all other books and indexes which have been kept according to the statute, exclusively for such county, city, town, town plot, incorporated village, township or reputed township or place, the original memorials and original duplicates of all deeds, conveyances and wills of, or relating exclusively to, any lands within the same, and all other instruments, and all maps of cities, towns or villages within the same, lodged according to law in his office.

Provision when any place is separated from a County.

Certain books, etc., to be transferred.

(2) Such first mentioned Registrar shall also deliver an abstract index book of all titles to lands within each of the detached localities, registered before separate registry books were kept for each township or place; and also a proper registry book containing full and complete copies of all memorials and other registered documents affecting such lands, which, by reason of their relating to two or more localities, cannot be delivered, such copies being entered in the book in the same order and relation in which they were originally inserted; and there being inserted on the margin of the book opposite to each memorial or instrument, the number thereof and the particular time at which the memorial or instrument was originally recorded as indorsed on the back thereof by the Registrar or his deputy, at the time of the original registration thereof. The book shall be accompanied by an alphabetical index of names; he shall also deliver as aforesaid a proper registry book containing a copy of all wills and other instruments registered in any general registry book in which the names of any of the parties thereto have been entered in the alphabetical index, kept for the locality so being detached; and shall also deliver a true copy of the alphabetical index attached to any general registry book; he shall also carefully compare all of such entries with the original entries in the registry books in his office and indorse a certificate to that effect in each book before delivering the same.

(3) The Registrar receiving such books, and his successors shall keep the same among the registry books of his office, and

deal with them in all respects in like manner, as those originally supplied to and kept therein. R. S. O. 1877, c. 111, s. 28; 49 V. c. 16, s. 28.

Penalty on Registrar refusing to make transfer, etc.

29. Any Registrar who refuses to deliver the books, plans, duplicates, indexes or memorials, aforesaid, within six months after demand in writing therefor, made upon him by the Registrar entitled to receive the same, shall upon conviction thereof, before any Court of Oyer and Terminer and General Gaol Delivery, forfeit his office, and be liable to a fine, in the discretion of the Court, not exceeding \$400. R. S. O. 1877, c. 111, s. 29.

Registrar removed or resigning to deliver up books, etc.

30. In case a Registrar is removed from or resigns his office, he shall forthwith deliver up all books, plans, instruments, memorials and indexes in his possession as Registrar to the person who is appointed Registrar in his stead, or to any other person who may be specially appointed in writing, by Her Majesty's Attorney-General of Ontario to receive the same, and if the Registrar refuses to do so, the Attorney-General may direct the sheriff of the county to seize and take immediate possession of the same wheresoever found, and the Registrar so offending shall be liable to a fine, in the discretion of the Court, not exceeding \$2,000, and to any term of imprisonment, if the Court thinks fit to impose it, in addition to the fine, not exceeding one year. R. S. O. 1877, c. 111, s. 30.

Proceedings in case of refusal.

When any book becomes unfit for further use copy to be made.

31. Where in any Registry Office, any book from age or use, is becoming obliterated or unfit for future use, the Inspector shall, by directions in writing under his hand, order such book to be re-copied in a book of the same description as that required under section 25 of this Act, so far as the same can be deciphered by examination thereof, and of the original memorials relating thereto, which book having the order of the Inspector for the copying thereof, under the hand of the Inspector, inserted at the beginning of the book, and having the affidavit or declaration of the Registrar or his deputy, at the end of the book, to the effect that the book so copied is a true copy of the original book of which it purports to be a copy, shall be to all intents and purposes, accepted and received as the original book, and as *prima facie* evidence that the copy is a true copy of the original book; every original book shall, nevertheless, be carefully preserved, notwithstanding a copy thereof has been made, and every Registrar or his deputy, shall be obliged to make his affidavit or declaration in this section mentioned, and the Inspector shall have power to order any book which is out of repair and unfit for use to be repaired in such manner as he thinks necessary; and he shall also have power to order plans and maps deposited in any Registry Office, to be copied, mounted or bound, to be preserved in such manner as he thinks necessary. R. S. O. 1877, c. 111, s. 32.

Original to be preserved.

Repair of books, maps, etc.

32. The Registrar shall, in a proper book kept for the purpose, and called the "Abstract Index," keep entered under a separate and distinct head each separate lot or part of a lot of land as originally patented by the Crown, or as defined on any plan of the subdivision of such land into smaller sections or lots after such plan has been filed in the Registry Office; and every instrument registered on and after the first day of January, 1866, mentioning such parcel or lot of land or other subdivision, and the names of every person to each instrument, and the nature of it (such as a "Will," "Grant," "Lease," "Power of Attorney,") the numbers of registration of all such instruments, for each municipality in which the land mentioned therein is situate, and the day, month, and year, of their registration, and the consideration or mortgage money mentioned therein, shall, by the Registrar, in addition to all entries by law required, be entered in regular order and rotation under the proper heading of each such separate parcel or lot of land mentioned in such instrument, and the book or books, to be so kept by each Registrar, for the purpose of making the said entries, shall be in the form or nearly so of Schedule M to this Act. R. S. O. 1877, c. 111, s. 33.

Abstract
index to lots.

33. Every Registrar shall also, for each township, city, town, and incorporated village, keep an Alphabetical Index of names, exhibiting in columns the number of each instrument, the names of the different grantors, and the names of the grantees, according to the form of Schedule N to this Act. R. S. O. 1877, c. 111, s. 34.

Alphabetical
index of names
for each
locality.

INSTRUMENTS THAT MAY BE REGISTERED.

34. Subject to the provisions of the next section, all instruments mentioned in section 2 of this Act may be registered. R. S. O. 1877, c. 111, s. 36.

Instruments
which may be
registered.

35. This Act shall not extend to any lease for a term not exceeding seven years, where the actual possession goes along with the lease; but it shall extend to every lease for a longer term than seven years. R. S. O. 1877, c. 111, s. 37.

Registration
of leases.

PROOF FOR REGISTRATION.

36.—(1) In the case of an instrument other than a will, grant from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, or certificate of judicial proceedings, a subscribing witness to the instrument shall in an affidavit setting forth his name, place of residence, and addition, occupation or calling, in full, swear to the following facts:

Facts to be
proved.

(a) To the execution of the original and duplicate if any there be;

(b) To the place of execution;

(c) That he knew the parties to the instrument, if such be the fact; or that he knew such one or more of them, according to the fact;

(d) That he is subscribing witness thereto.

Form of affidavit.

(2) The affidavit may be in the form of Schedule E to this Act, or to the like effect. R. S. O. 1877, c. 111, s. 38.

Affidavit to be registered.

37. The affidavit shall be made on the instrument or securely attached thereto, and the instrument and affidavit shall be copied at full length in the Registry Book. R. S. O. 1877, c. 111, s. 39.

When different witnesses see different grantors execute.

38. Where an instrument is executed by one or more grantors, but not by all of them, in presence of the same witness or witnesses, and by one or more of the other parties thereto in presence of another witness or other witnesses, then and in such case the witness or one of the witnesses, whether the same be so executed in the same or in different places, shall make an affidavit in accordance with section 36 as to each separate and distinct execution of the instrument before the same is registered. R. S. O. 1877, c. 111, s. 40.

Certain defects in affidavit not to invalidate registration.

39. No registration under this Act of any instrument shall be deemed or adjudged void, or defective by reason of the name, place of residence, addition, occupation or calling of the subscribing witness thereto not being set forth in full, or being improperly or insufficiently given or described in the affidavit mentioned in and required by section 36, nor by reason of any clerical error or omission of a merely formal or technical character in the affidavit. R. S. O. 1877, c. 111, s. 41.

Name of witness need not be set forth in full in affidavit.

40. Any instrument may be registered under this Act, notwithstanding that the Christian name or names of the subscribing witness making the affidavit is or are only set forth therein by initial letter or letters, or abbreviation or abbreviations, and not in full. R. S. O. 1877, c. 111, s. 42.

Before whom to be sworn.

41. Every affidavit made under the authority of this Act shall be made before some one of the following persons:

In Ontario.

1. If made in Ontario, it shall be made before—

The Registrar or Deputy Registrar of the county in which the lands lie.

Or, before a Judge of the Supreme Court of Judicature.

Or, before a Judge of a County Court within his county,

Or, before a Commissioner authorized by the High Court to take affidavits,

Or before any Justice of the Peace for the county in which the affidavit is sworn. R. S. O. 1877, c. 111, s. 43 (1),

Or before a Notary Public having authority in Ontario. 48 V. c. 16, s. 3 ; c. 23, s. 3.

2. If made in Quebec, it shall be made before—

In Quebec.

A Judge or Prothonotary of the Superior Court or Clerk of the Circuit Court,

Or, before a Commissioner authorized under the laws of Ontario to take, in Quebec, affidavits in and for any of the Courts of Record in the Province of Ontario,

Or, before any Notary Public in Quebec, certified under his official seal.

3. If made in Great Britain or Ireland, it shall be made before—

In United Kingdom.

A Judge of the Supreme Court of Judicature in England, or Ireland, or of the Court of Session or the Justiciary Court in Scotland,

Or, before a Judge of any of the County Courts within his county,

Or, before the Mayor or Chief Magistrate of any city, borough or town corporate therein, and certified under the common seal of the city, borough or town corporate,

Or, before a Commissioner authorized to administer oaths in the Supreme Court of Judicature in England or before a Commissioner authorized by the laws of Ontario to take, in Great Britain or Ireland, affidavits in and for any of the Courts of Record of the Province of Ontario,

Or, before a Notary Public certified under his official seal.

4. If made in any British Colony, or Possession, it shall be made before—

In a British Colony.

A Judge of a Court of Record, or of any Court of Supreme Jurisdiction in the Colony,

Or, before the Mayor of any city, borough or town corporate, and certified under the common seal of the city, borough or town,

Or, before a Notary Public, certified under his official seal,

Or, if made in the British Possessions in India, before any Magistrate or Collector, certified to have been such under the hand of the Governor of such Possession,

Or, before a Commissioner authorized by the laws of Ontario to take, in such British Colony, or Possession, affidavits in and for any of the Courts of Record of the Province of Ontario.

In a Foreign Country.

5. If made in any Foreign Country, it shall be made before—
The Mayor of any city, borough or town corporate of such country, and certified under the common seal of the city, borough or town corporate,

Or, before a Consul, Vice-Consul, or Consular Agent of Her Majesty, resident therein,

Or, before a Judge of a Court of Record or a Notary Public, certified under his official seal,

Or, before a Commissioner authorized by the laws of Ontario to take, in such country, affidavits in and for any of the Courts of Record of the Province of Ontario. R. S. O. 1877, c. 111, s. 43 (2-5).

Witnesses compellable to make affidavit.

42. Every subscribing witness shall be compellable, when necessary, by order of a Judge of the High Court or of a County Court, to make affidavit or proof of the execution of any instrument for the purpose of registration under this Act, and to do all other acts necessary for the same purpose, upon being paid or duly tendered his reasonable expenses therefor. R. S. O. 1877, c. 111, s. 44.

Affirmation or declaration in certain cases.

43. The proof may be either by affidavit or by affirmation or declaration, when by the law of the country where the proof is made, an affirmation or declaration may be substituted for an affidavit; and the Registrar shall receive the instruments so proved without any other or further proof of their due execution. R. S. O. 1877, c. 111, s. 45.

Parties not to take affidavits.

44. None of the persons authorized to take affidavits by this Act shall take an affidavit of the execution of an instrument, in case he is a party to the instrument; nor shall such affidavit for the proof of an instrument executed after the first day of January, 1866, be taken from a witness, unless the witness has subscribed his name in his own handwriting as such witness. R. S. O. 1877, c. 111, s. 46.

Witness to sign.

Witnesses insane, absent, &c.

45. Where the witnesses to an instrument are dead or are out of this Province, or have become insane, idiotic, imbecile, or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument, not by law requiring an attesting or subscribing witness thereto, has been executed without an attesting or subscribing witness thereto, or in case it is proved to the satisfaction of the Judge in this section mentioned that the place of abode or residence of such first above mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the

instrument, may make proof before the Judge of a County Court in Ontario, of the execution of the instrument, and upon a certificate (according to the form of Schedule F to this Act) endorsed on the instrument and signed by the Judge, that the Judge is satisfied by the proof adduced of the due execution of the instrument, the Registrar shall register the instrument and certificate. R. S. O. 1877, c. 111, s. 47.

46. The seal of any Court of Record affixed to an instrument in writing, of itself, and the seal of any corporation affixed to any such instrument with the signature of the secretary or presiding officer thereof, shall be sufficient evidence of the due execution of the instrument by the Judge, Registrar, Clerk or officer of the Court signing the same, or by the corporation respectively, for all purposes respecting the registration thereof, and no further evidence or verification of the execution shall be required for the purpose of registration. R. S. O. 1877, c. 111, s. 48.

Seal of Court or seal of Corporation with signature of officer to suffice for registration.

47. Certificates of proceedings in the High Court for registration may be signed by one of the Registrars of the Court, or by the Clerk of Records and Writs, or by a Deputy Clerk of the Crown or Deputy Registrar, or by any other official authorized by the Court to sign the same; and such certificates may be under the seal of the Court, or under the seal of office (if any) of the officer signing the same. R. S. O. 1877, c. 40, s. 89; c. 111, s. 49.

Certificates for registry. Who may sign.

48. The instituting of an action or the taking of a proceeding, in which action or proceeding any title or interest in land is brought in question, shall not be deemed notice of the action or proceeding to any person not being a party thereto, until a certificate signed by one of the officers in the preceding section mentioned, has been registered in the Registry Office of the Registry Division in which the land is situate, which certificate may be in the following form:—

Action, etc., not notice unless certificate registered.

"I certify that in an action or proceeding in the High Court, between A. B., of and C. D., of some title or interest is called in question in the following land (*describing it.*)"

Form of certificate.

Dated at (*stating date and place.*)

But no certificate shall be required to be registered in any action or proceeding for foreclosure or sale upon a registered mortgage. R. S. O. 1877, c. 40, s. 90.

Not necessary in foreclosure cases.

49. Every judgment affecting land may be registered in the Registry Office of the county or other registry division where the land is situate, on a certificate signed by one of the officers in section 47 mentioned, setting forth the substance and effect of the judgment, and the land affected thereby. R. S. O. 1877, c. 40, s. 91.

Judgment affecting lands may be registered.

Registrar to deliver certified copy of power of attorney registered.

50. Where a power of attorney or any substitution thereof is registered, the Registrar shall deliver a certified copy or copies of such power or substitution as may be required of him, and of all the documents aforesaid connected with or relating to the same, under his signature and seal of office, in which certificate he shall declare the time, place and other particulars of registration as in other cases under this Act, and he shall also declare that the copy, which he so delivers, is a true copy of the power or substitution, and of all the other documents connected with or relating to the same of which they respectively purport to be copies, and that the originals have been duly deposited in his office according to the statute in that behalf. R. S. O. 1877, c. 111, s. 50.

Use and effect of such certified copy.

51. Every such certified copy where the original power or substitution is deposited as aforesaid, may be registered in any other Registry Office, by deposit thereof, without production of the original power or substitution, and without proof of any kind other than the production of the copy so certified as aforesaid. R. S. O. 1877, c. 111, s. 51.

Copy *prima facie* evidence.

52. Every such certified copy of a power of attorney or substitution, shall be received in all cases in place of the original as *prima facie* evidence of the original power or substitution and of due execution, provided that notice has been given in the manner set forth in section 45 of *The Evidence Act*. R. S. O. 1877, c. 111, s. 52.

Act, Stat. c. 47 s. 45.

Registry of instrument in several Registry offices.

53. Where it is desired to register an instrument other than a will in more than one Registry Office, the same may be registered in like manner as is provided as to powers of attorney by sections 50 and 51 of this Act. R. S. O. 1877, c. 111, s. 53.

Registration of notarial copies of instruments executed in Quebec.

54. Every notarial copy of any instrument executed in the Province of Quebec, the original of which is filed in any notarial office according to the law of Quebec, and which cannot therefore be produced in Ontario, and every prothonotarial copy of any instrument executed in Quebec shall be received in lieu of and as *prima facie* evidence of the original instrument, and may be registered and treated under this Act for all purposes as if it were in fact the original instrument, and such notarial or prothonotarial copy shall be registered without any other or further proof of the execution of the same, or of the original thereof, with the seal of the Notary or Prothonotary attached. R. S. O. 1877, c. 111, s. 54.

MANNER OF REGISTERING.

Generally.

Instruments to be delivered to Registrar and registered in full.

55. All instruments that may be registered under this Act shall be registered at full length, including every certificate and affidavit, excepting certificates by the Registrar, accom-

panying the same, upon and by the delivery to the Registrar of the original instrument, when but one is executed, or when such instrument is in two or more original parts, upon and by delivery of one of such parts. R. S. O. 1877, c. 111, s. 55.

56. Where any instrument, signed or executed by any person by attorney, shall hereafter be registered, it shall be the duty of the Registrar on registration thereof to enter a note of the fact of such signature or execution by attorney, giving the name of the attorney or attorneys, as the case may be, on the abstract indices, and on all abstracts of title thereafter furnished by him relating to the lands affected thereby. 49 V. c. 24, s. 2.

Special entry to be made when instrument executed by attorney.

57. In case one of two or more original parts is registered, the Registrar shall endorse upon each of such original parts a certificate of the registration, in the form of Schedule G to this Act, and the original, so certified, shall be received as *prima facie* evidence of the registration and of the due execution of the same. R. S. O. 1877, c. 111, s. 56. See Cap. 61, s. 44.

Instruments in two or more parts.

58. Where an instrument includes different lots or parcels of land situate in different municipalities in the same county, it shall only be necessary to furnish one duplicate original of such instrument, with an affidavit of its execution, and the duplicate original and affidavit shall be copied into the registry book pertaining to each city, town, incorporated village, township, or place wherein the lands therein mentioned are situate, and the Registrar shall make the necessary entries and certificates accordingly. R. S. O. 1877, c. 111, s. 57.

Instruments relating to several lots in different localities.

59. Every deed executed prior to the fourth day of March 1868, affecting lands situate in more than one county, and of which said deed no memorial has been executed, may be recorded in any one of the counties in which some of the lands are situate, upon proof made in accordance with this Act, and in the other counties by deposit of a copy of every such deed and proof certified as is provided with respect to powers of attorney in sections 50 and 51 of this Act. R. S. O. 1877, c. 111, s. 58.

Registration of deeds containing lands situate in more than one County and of which no memorial has been executed.

60. The Registrar or Deputy Registrar of the county in which the lands are situate shall, upon production to him of the original instrument, duplicate or other original part thereof, together with an affidavit of execution enter the said instrument in the registry book, in the order in which it is received, and he shall file the same with the affidavit of execution, and he shall endorse a certificate on every such instrument and upon every duplicate of the instrument in the form of Schedule G to this Act, and shall therein mention the certain year, month, day, hour and minute in which the instrument is entered and registered, expressing also in what book the same has been entered, and the number of registration; and the said

Copying into Registry Book.

Filing away instrument and affidavit.

Certificate
and its effect.

Registrar or his deputy shall sign the said certificate when so endorsed, which certificate shall be allowed and taken as evidence of the respective registries in all Courts. R. S. O. 1877, c. 111, s. 59.

Pages and in-
struments to
be numbered.

61. Every page of the registry book, and every instrument entered therein shall be numbered, and the certain year, month, day, hour, and minute of registration shall be entered in the margin of the registry books, in the form of Schedule H to this Act; and the entry shall be signed by the Registrar or his deputy. R. S. O. 1877, c. 111, s. 60.

Crown Grants.

Crown Grants.

62. Grants from the Crown shall be registered by producing the grant or an exemplification thereof to the Registrar, with a true copy sworn to by any person who has compared the same with the original; and the copy shall be filed with the Registrar. R. S. O. 1877, c. 111, s. 61.

Orders in Council.

Orders in
Council.

63. Orders of the Governor-General in Council or of the Lieutenant-Governor in Council may be registered in the Registry Office of the county or other registry division in which any land to which the Order in Council relates is situate by the deposit of a copy of the Order, certified by the Clerk of the Council. R. S. O. 1877, c. 111, s. 62.

Wills.

Registration
of wills.

64. Every will shall be registered at full length by the production of the original will and the deposit of a copy thereof, with an affidavit sworn to by one of the witnesses to the will, proving the due execution thereof by the testator, or by the production of probate or letters of administration with the will annexed, or an exemplification thereof, under the seal of any Court in this Province, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by the deposit of a copy of the probate, letters of administration, or exemplification with an affidavit verifying such copy. 48 V. c. 23, s. 1.

Other Instruments.

Other instru-
ments.

65. All instruments, other than grants from the Crown and wills, shall be registered by the deposit of the original instrument, or by the deposit of a duplicate or other original part thereof with all the necessary affidavits. R. S. O. 1877, c. 111, s. 64.

[*As to Registration of Orders and Judgments for Alimony.*
See Cap. 44, s. 30.]

Instruments executed before the 1st, January, 1866.

66. The registration of all instruments executed before the first of January, 1866, may be made through memorials or by certificate or otherwise, as provided by the law in force prior to the Registry Act passed in the year 1865. R. S. O. 1877, c. 111, s. 65. Registration of instruments executed before 1st Jan., 1866.

67. The proof that would before the first day of January 1866, have been sufficient for the registration of any instrument executed prior to the said date, shall be deemed sufficient for the registration hereafter of any such instrument; but in any such case the instrument shall be registered at full length, and the memorial and affidavit shall be deposited and filed in lieu of an original or duplicate. R. S. O. 1877, c. 111, s. 66. Proof of registration of instruments executed before 1st Jan., 1866, etc.

68.—(1) Any instrument which has been registered by memorial prior to the 1st day of January, 1866, and has endorsed thereon a certificate of the registration thereof, may be re-registered at full length in the same or any other Registry Division, by the production of the original instrument and the deposit of a copy thereof, with an affidavit verifying the copy. Registration of instruments in full when memorials previously registered.

(2) In re-registering such instrument the Registrar shall copy the affidavit of verification and the certificate of former registration, and shall write in the margin of the registry book the words "Original not deposited," and where the former registration was made in the same office, the Registrar shall write upon the entry of the memorial in the registry book a memorandum as follows:—"Re-registered in full at No.——," giving a reference to the number and volume where the full registration is entered, and he shall also note the re-registration in red ink wherever in an abstract index the memorial is entered.

(3) The Registrar shall also endorse upon the original instrument a certificate of the re-registration, in a form similar to the certificate of registration given in Schedule G to this Act. 50 V. c. 7, s. 13.

Discharge of Mortgages.

69. Where a registered mortgage has been satisfied, the Registrar, on receiving a certificate executed by the mortgagee, or if the mortgage has been assigned and the assignment registered, then executed by the assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, in the form of Schedule J, to this Act, or to the like effect, executed in the presence of one witness, and duly proven by the oath of the subscribing witness thereto, in the same manner as herein is provided for the proof of other instruments affecting lands, shall register the same, and Satisfaction of mortgage how registered.

Entry in
margin of
register.

Effect of such
registration.

every affidavit attached thereto or endorsed thereon, at full length in its proper order, in the registry book, and shall number it in like manner as other instruments are required to be registered and numbered, and shall write in the margin of the register wherein the said mortgage has been registered, words to the following effect: "—————*See certificate purporting to be discharge signed by*—————(naming the person who has executed the same), *and see Registry number*—————*of such certificate*—————*Book* (stating the same according to the fact)," and to such marginal entry the Registrar or his Deputy shall affix his name; and the same shall be deemed a discharge of the mortgage, and the certificate so registered shall be as valid and effectual in law as a release of the mortgage, and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor. R. S. O. 1877, c. 111, s. 67.

How mort-
gages to mar-
ried women
discharged.

70.—(1) It shall not be necessary to the validity of any certificate of discharge of mortgage given by a married woman, that the husband of such married woman should be a party to or should execute the same; and it is hereby declared that any discharge of mortgage heretofore executed by a married woman alone (and duly registered) shall be as effectual to discharge such mortgage and to re-convey all the estate of such married woman in the mortgaged lands as if the same had been executed by the husband and wife conjointly. R. S. O. 1877, c. 111, s. 69 (1); 44 V. c. 10, s. 1.

Mode of exe-
cution by mar-
ried women.

(2) Any such certificate given between the 19th day of December, 1868, and the 29th day of March, 1873, shall be deemed to have been sufficiently executed if it has been executed jointly by such married woman and her husband; and from and after the 29th day of March, 1873, and after the passing of this Act execution either jointly by the married woman and her husband, or pursuant to *The Married Woman's Real Estate Act* shall be deemed sufficient execution; and it shall not be necessary to produce any certificate of such married woman having been examined before any of the persons authorized by the laws in force between said dates touching her consent thereto in any wise. R. S. O. 1877, c. 111, s. 69 (2).

Rev. Stat.
c. 134.

All discharges
of mortgage
before 19th
Dec., 1868,
confirmed.
32 V. c. 9.

71. All certificates of discharge of mortgage and the registering thereof, executed by married women or registered previously to the nineteenth day of December, 1868, according to the terms of the Act passed in the thirty-second year of Her Majesty's reign, and chaptered nine, shall be as valid and binding as if done after the said date. R. S. O. 1877, c. 111, s. 70.

Release of part
only of lands
mortgaged.

72. In case the mortgagee or any assignee of the mortgagee desires to release or discharge part only of the lands contained in such mortgage, or to release or discharge only part of the money specified in the mortgage, he may do so by deed or by

a certificate to be made, executed, proven, and registered in the same manner as in cases where the whole lands and mortgage are wholly released and discharged; and such deed or certificate shall contain as precise a description of the portion of lands so released or discharged as would be necessary to be contained in an instrument of conveyance for registration under this Act, and also a precise statement of the amount or particular sum or sums so released or discharged. R. S. O. 1877, c. 111, s. 68.

Portion
released and
discharged.

73.—(1) When a sheriff, bailiff of a Division Court or other officer, under a writ or warrant of execution against goods, seizes any mortgage belonging to the person against whose effects the writ or warrant has issued, on or affecting land in the Province of Ontario, the payment with or without suit in whole or in part to the sheriff, bailiff, or other officer by the mortgagor or any other person of the mortgage money thereby secured shall discharge the mortgage to the extent of such payment.

Discharge
mortgage
seized under
execution.

(2) After payment of the mortgage or any part thereof, the sheriff, bailiff, or other officer shall, at the request and expense of the person requiring the same, give a certificate in the form or to the effect of Schedule K to this Act, under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff, and the seal of the Court of which he is bailiff.

Form of cer-
tificate of dis-
charge.

(3) Upon the written request of the bailiff the clerk of the Court shall affix to the certificate the seal of the Court; and he shall file the request of the bailiff in his office.

Seal of Court.

(4) The execution of the certificate shall be proved by the same oath or affirmation, and in the same manner as is provided by law for the proof for registration of other instruments affecting lands, and the certificate, shall be registered in the same manner as other certificates of discharge of mortgages are registered.

Proof of exe-
cution of cer-
tificate.

(5) Every certificate so registered, if the same is of payment in full of the mortgage, shall be as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

Effect of cer-
tificate.

(6) Every certificate so registered, if the same is of payment of only a portion of the mortgage, shall be as valid and effectual in law as a release of the mortgage as to such portion, as if executed by the execution debtor.

Effect of cer-
tificate of part
payment.

(7) The provisions of this section shall extend and apply to all cases in which the seizure or payment was before, or since the twenty-first day of December, 1874. R. S. O. 1877, c. 111, s. 71.

Retrospective
operation.

Residence, etc., of witness to discharge of mortgage need not be given in attesting clause.

74. It shall not be necessary that the residence or occupation of the attesting witness to any certificate of discharge of mortgage be stated in the attestation clause thereof; nor shall any such certificate, registered before the twenty-ninth day of March, 1873, be invalid or inoperative by reason of the omission to state in the attestation clause the residence or occupation of such attesting witness. R. S. O. 1877, c. 111, s. 72.

By-Laws.

Registration of by-laws passed since March 29, 1873.

75.—(1) Every by-law passed since the twenty-ninth day of March, 1873, or hereafter to be passed by any municipal council under the authority of which any street, road, or highway has been or is opened upon any private property, shall before the same becomes effectual in law, be duly registered in the Registry Office of the Registry Division in which the land is situate; and for the purpose of registration a duplicate original of the by-law shall be made out, certified under the hand of the clerk and the seal of the municipality, and shall be registered without any further proof.

As to by-laws etc., made before March 29, 1873.

(2) Every by-law passed before the said day, and every order and resolution of the Quarter and General Sessions passed before the said day under the authority of which any street, road, or highway, has been opened upon any private property, may at the election of any party interested and at the cost and charges of such party or municipality, be also duly registered, upon the production to the Registrar of a duly certified copy of the by-law under the hand of the clerk of the municipality and the seal of the municipality, or by a duly certified copy of the order or resolution of the Quarter or General Sessions, given under the hand and seal of the Clerk of the Peace, as the case may be. R. S. O. 1877, c. 111, s. 73.

EFFECT OF REGISTERING OR OMITTING TO REGISTER.

Unregistered instruments after grant from the Crown to be void against subsequent registered purchaser, etc.

76. After any grant from the Crown of lands in Ontario, and letters patent issued therefor, every instrument affecting the lands or any part thereof comprised in the grant shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless such instrument is registered, in the manner herein directed, before the registering of the instrument under which the subsequent purchaser or mortgagee claims. R. S. O. 1877, c. 111, s. 74.

Wills to be registered within twelve months from death of testator.

77. All wills or the probates thereof registered within the space of twelve months next after the death of the testator or testatrix, shall be as valid and effectual against subsequent purchasers and mortgagees, as if the same had been registered immediately after such death; and in case the devisee, or per-

son interested in the lands devised in any such will, is disabled from registering the same within the said time by reason of the contesting of such will or by any other inevitable difficulty without his or her wilful neglect or default, then, the registration of the same within the space of twelve months next after his attainment of such will or probate thereof, or the removal of the impediment aforesaid, shall be a sufficient registration within the meaning of this Act. R. S. O. 1877, c. 111, s. 75.

78. Every deed made by a treasurer or other officer for arrears of taxes shall be registered within eighteen months after the sale by such treasurer or other officer; and all deeds of lands sold under process issued from any Court in Ontario, shall be registered within six months after the sale of the lands; otherwise the parties respectively claiming under any of such sales, shall not be deemed to have preserved their priority as against a purchaser in good faith who has registered his deed prior to the registration of the deed from the treasurer or other officer. R. S. O. 1877, c. 111, s. 76. *See also* Cap. 193, s. 184.

Registry of deeds on sales for taxes.

Other sales under process of Court.

79. Where deeds for lands sold for taxes, or under process of law, before the fourth day of March, 1868, have not been registered within one year after the said day, the parties respectively claiming under any such sales shall not be deemed to have preserved their priority as against a purchaser in good faith who has acquired priority of registration. R. S. O. 1877, c. 111, s. 77.

Sales for taxes before 4th March, 1868.

80. The registration of any instrument, under this Act, or any former Act, shall constitute notice of the instrument, to all persons claiming any interest in the lands, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it shall continue to be the duty of every Registrar not to register any instrument, except on such proof as is required by this Act. R. S. O. 1877, c. 111, s. 78.

Registry to be notice.

81. So far as by the last preceding section it is provided that notwithstanding any defect in the proof for registration the registration of an instrument shall constitute notice thereof, the said section shall only apply retrospectively from the twenty-ninth day of March, 1873, as to matters and facts within the meaning of section 39 of this Act. R. S. O. 1877, c. 111, s. 79.

Retrospective operation of last section.

82. Priority of registration shall prevail unless before the prior registration there has been actual notice of the prior instrument by the party claiming under the prior registration. R. S. O. 1877, c. 111, s. 80.

Actual notice.

A. to liens,
33.

83. No equitable lien, charge, or interest affecting land shall be deemed valid in any Court in this Province, as against a registered instrument executed by the same party, his heirs or assigns; and tacking shall not be allowed in any case to prevail against the provisions of this Act. R. S. O. 1877, c. 111, s. 81.

MISCELLANEOUS PROVISIONS.

Plans.

Registration of
plans when
land sub-
divided.

Scale of plan,
and what to
shew.

Duty of Regis-
trars there-
after.

Instruments
must conform
to such plan.

Penalty for
refusing to
register plan.

How
recovered.

84.—(1) Where any land is surveyed and subdivided for the purpose of being sold or conveyed in lots, by reference to a plan which has not been already registered, the person making the subdivision shall, within three months from the date of the survey, file with the Registrar a plan of the land on a scale not less than 1 inch to every 4 chains. The plan shall shew the number of the township, town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land shewn on the said plan, and where such plan is a subdivision of a lot or lots on a former plan, it shall shew the numbers or other distinguishing marks of the lot or lots subdivided, and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons, within the same, with the courses and widths thereof respectively, and the width and length of all lots and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being subdivided. 50 V. c. 8, Sched.

(2) Every such map or plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is filed, and shall also be certified by some Provincial land surveyor in the form of Schedule L to this Act; and thenceforth the Registrar shall keep an index of the lands described and designated by any number or letter on the map or plan, by the name by which such person, corporation or company designates the same in the manner provided by this Act; and all instruments affecting the land or any part thereof, executed after the plan is filed with the Registrar shall conform and refer thereto, otherwise they shall not be registered.

(3) In the case of refusal by such person, corporation or company, his or their executors, agents or attorneys, or successors, for two months after demand in writing for that purpose, to lodge the said plan or map when required by any person interested therein, or by the Inspector so to do, he or they shall incur a penalty of \$20 for each and every calendar month the said map or plan remains unregistered, which penalty may be recovered by any person complaining, in any Division Court, in the county in which such lands are situated, in like manner as a common debt.

(4) This section shall apply as well to lands already surveyed or subdivided as to those which may hereafter be surveyed or subdivided, subject to the next succeeding section. R. S. O. 1877, c. 111, s. 82 (2-4). *See also* Cap. 152, s. 63.

To what land this section applies.

85. In sales of lands under surveys or subdivisions made before the fourth day of March, 1868, where such surveys or subdivisions so differ from the manner in which such land was surveyed or granted by the Crown that the parcel so sold cannot be easily indentified, the plan or survey shall be registered within six months after the passing of this Act, if the plan or survey is still in existence and procurable for registration and filing under the next preceding section, and if it is not, a new survey or plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by some duly authorized Provincial land surveyor, or as nearly as may be according to the proper original survey or subdivision, and the same when so made shall be filed as if under the next preceding section of this Act. R. S. O. 1877, c. 111, s. 83.

When plan must be registered in case of lands subdivided before March 4, 1868.

86. In no case shall any plan or survey, although tiled and registered, be binding on the person so filing or registering the same, or upon any other person, unless a sale has been made according to such plan or survey, and in all cases amendments or alterations of any such plan or survey may be ordered to be made, at the instance of the person filing or registering the same or his assigns, by the High Court, or by a Judge of the said Court, or by the Judge of the County Court of the county in which the lands lie, if on application for the purpose duly made, and upon hearing all parties concerned, it be thought fit and just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed expedient. An appeal shall be from any such order to the Court of Appeal. R. S. O. 1877, c. 111, s. 84.

When not binding until sale is made under it; alterations in plan.

87.—(1) Where an incorporated city, town or village, or village not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and filed in accordance with section 84 of this Act, the municipal council of the township within which such unincorporated village is situated or of such incorporated city, town or village, shall, upon the written request of the inspector or of any person interested, addressed to the clerk of the municipality, immediately cause a plan of such city, town or village to be made upon the scale provided for under this Act, and to be registered in the Registrar's office of the Registry Division within which the municipality lies, which map or plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor, that the same

Plans of towns or villages to be registered in certain cases.

is prepared according to the directions of the municipality, and in accordance with this Act, and to the map or plan the corporate seal of the municipality shall be attached.

Payment of expenses.

(2) The expense attending the preparing and depositing of the map or plan shall be paid out of the general funds of the municipality, except in the case of unincorporated villages, where the same shall be paid by a special rate to be levied by assessment on all ratable property comprised in the unincorporated village, as described by metes and bounds in a by-law to be passed by the municipality for the purpose of levying such rate; and in case of the refusal of the municipality to comply with all the requirements of this section within six months next after being required in manner aforesaid so to do, the municipality shall incur the same penalty, and the same shall be recoverable in the manner provided in section 84 of this Act.

Registration of plans of Township sub-divisions in certain cases.

(3) Where land in a township has been or shall hereafter be sold under surveys or subdivisions made in a manner which so differs from that in which such land was surveyed or granted by the Crown, that the parcel sold cannot be easily identified, and the map or plan has not been registered under this or any other Act in that behalf, the council of the township may, at the written request of the Inspector, or of any person interested, cause a plan of any such land to be made and registered in the same manner and with the same effect as in the case of an unincorporated village; and the expenses attending the preparation of and filing of the map or plan shall be paid by a special rate to be levied by assessment on the lands comprised in said map or plan, as described in a by-law to be passed by the council for the purpose of levying such rate; and the municipality shall have the like remedies for the recovering of such last mentioned expenses as it has for compelling payment of taxes.

Obligations not impaired.

(4) Nothing in this section contained shall be deemed or construed to relieve any person from any liability, duty, obligation, or penalty provided or imposed by or under any of the provisions of section 84 of this Act. 48 V. c. 23, s. 2; 49 V. c. 16, s. 30.

Plans of surveys to be deposited with treasurer of municipality.

88. Every person who is required by this Act to lodge with the Registrar a plan or map of any survey or subdivision of land made by him, or of any alteration of such survey or subdivision, shall also, within three months from the date of the survey, lodge with the treasurer of the municipality in which the land is situate a duplicate or copy of such plan or map and in case of neglect or refusal so to do, within two months after notice in writing given by such Treasurer requiring him to lodge such plan as provided by this section, every such person shall incur a penalty of \$20 for each and every month during which the default shall continue. 43 V. c. 24, s. 26.

Penalty.

Re-registration where Registry Books lost, etc.

89.—(1) In any case where the registry books and papers were before the fourth day of March, 1868, lost or destroyed and the memorials are not forthcoming, upon proof being made to that effect before a Judge of any Court of Record in this Province to the satisfaction of the Judge as evidenced by a certificate under his hand, it shall be lawful for the Registrar for the Registry Division where the lands are situate to register the instrument upon production thereof, and no further proof shall be required by the Registrar than the original certificate of registration endorsed on such instrument; and any such instrument shall have priority according to the date of the original certificate.

Provisions for re-registration in case registry books or papers are lost or destroyed.

(2) The instrument shall be filed away by the Registrar and preserved with the records of his office, and in case memorials have not been copied into the registry books in their proper order, the Inspector may cause the same to be entered in proper books to be procured for the purpose, in the same manner as provided in section 25 of this Act, and the Registrar shall be paid therefor in the same manner as under sub-section 7 of section 95 of this Act. R. S. O. 1877, c. 111, s. 86.

Defects in Registration cured.

90. No registration of any deed or other instrument made before the fourth day of March, 1868, shall be deemed or adjudged void by reason of the name or names, residence or residences, addition or additions of the witness or witnesses to the deed or instrument being improperly given or described in the registered memorial thereof, or being either in part or altogether omitted from such memorial, or by reason of any clerical error or omission of a formal or technical character therein; and all registrations before the said day effected in separate registry books of unincorporated villages, are hereby confirmed, where the law has been otherwise complied with; and such separate registry books shall be taken and held to form part of the registry books of the municipality of which the unincorporated village forms a part; but such books shall not be further used. R. S. O. 1877, c. 111, s. 87.

Registration made before 4th March, 1868, not to be deemed void for certain defects.

Registration in books for unincorporated villages.

Proviso.

91. The registration of an instrument had before the twenty-ninth day of March, 1873, shall not be deemed void by reason of any defect in the proof for registration; but this section shall not apply to any matter or fact adjudged or decided upon before the said date by any Court of competent jurisdiction in that behalf. R. S. O. 1877, c. 111, s. 88.

Defective registrations before 29th March, 1873, not to be deemed void.

92. No registration or entry made before the said last mentioned date shall be adjudged or held to be void by reason of the Registrar having failed or omitted to make or sign the certi-

Registrations, etc., not to be deemed void by absence of

certificates,
etc., in margin
of books.

cate of entry, discharge, or registration required to be made in the margin of, or elsewhere in the registry books or other books of entries: and in case of such failure or omission, the certificate may be made or signed by any subsequent Registrar, and shall have the same force and effect as if it had been made or signed by the Registrar whose duty it was to have made or signed it. R. S. O. 1877, c. 111, s. 89.

The case of
part of a town-
ship made
part of a new
township with-
out change of
registry books
provided for.

93.—(1) In case a part or parts of any township or townships as originally laid out, surveyed and named, had before the said last mentioned date been made or erected into a new township but, nevertheless, the registrations of instruments affecting or respecting land in said first mentioned township or townships, and the registry books and indexes therefor and relating thereto continued to be and were on the said date used, made, kept, entered and registered for and of said first mentioned township or townships, and as if the same had continued to be as so originally laid out, surveyed and named, then and in every such case, and for and in respect of all matters and purposes of or relating to any such instrument either before or after the said date and any and all such registrations, registry books and indexes, and the description therein of any land or premises, said first mentioned township or townships shall be deemed, considered and taken as if the same had continued to be and remained as so originally laid out, surveyed and named.

Provide,

(2) Nothing in this section contained shall be deemed or taken as relating to or affecting any incorporated town or village, or the land therein, or the registration of any instrument respecting the same, from or after the time of the incorporation of said town or village.

Provide,

(3) Nothing in this section contained shall impair or make defective any instrument or the registration thereof, because of any land being therein described or mentioned as situate in such new township. R. S. O. 1877, c. 111, s. 90.

List of Crown Grants to be furnished to Registrar.

Provincial
Secretary to
furnish state-
ment of Crown
grants once
every three
months.

94. The Provincial Secretary shall once in every three months, furnish to each Registrar a statement containing a list of the names of all persons to whom patents have issued from the Crown for grants of land within the county since the former statements, and of all persons whose patents have been cancelled, since the former statements, and with such general or particular descriptions, as the case may require; and the Commissioner of Crown Lands shall furnish copies of all plans or maps of towns and townships within the same, which have not been already furnished, and in cases where no proper survey of any township has been made he may cause a proper survey and plan thereof to be made and furnished. R. S. O. 1877, c. 111, s. 91. See also Cap. 24, ss. 35-37.

Maps to be
furnished by
Commissioner
of Crown
Lands.

FEES OF REGISTRARS.

95. Every Registrar shall be allowed the following fees for Fees, the following services, and no more :

1. For the necessary entries and certificate in registering every instrument other than those hereinafter specially provided for, including among such certificates the certificate on the duplicate, if any, forty cents ; and for registering every instrument, other than those hereinafter specially provided for, \$1 ;

For registrations generally.

But in case the said instrument exceeds seven hundred words, then at the rate of fifteen cents for each additional one hundred words or the fractional part thereof, up to fourteen hundred words, and at the rate of ten cents for each additional hundred words or fractional part thereof over fourteen hundred ; and if the memorial or other instrument embraces different lots or parcels of land, situate in different localities in the same county, the registration and copying of such, including all necessary entries and certificates thereof into the different registry books, shall be considered separate and distinct registrations of such instruments, but shall be charged for and paid at the rate of forty cents for the necessary entries and certificate, and for the said instrument, fifteen cents for every one hundred words, or the fractional part thereof up to fourteen hundred, and of all over that, at the rate of ten cents for each hundred words or fractional part thereof ;

If the instrument includes different lots in different localities.

2. For searching the registry books and indexes relating to the title of any lot or part of a lot of land as originally patented by the Crown, or as afterwards subdivided into smaller lots, shewn by any registered map or plan thereof, when not exceeding four references, twenty-five cents, and five cents for every additional reference ; but in no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of \$2 ;

For searches as to title.

3. For searching, if specially required, the alphabetical index of names referred to in section 33 as to each name in the books of any one township, or other legally defined municipality in the county, twenty-five cents ; but if a general search as to any such name is made throughout the county, the aggregate of fees for such search shall not exceed \$1 ;

Searching Alphabetical Index.

General search.

4. For every abstract of title to any specific parcel of land certified by the Registrar containing such particulars as to any number of the registered instruments affecting such parcel of land as the party searching may require, twenty-five cents ; and when such abstract exceeds one hundred words, fifteen cents for every additional hundred words ; and for copies of instruments when required, ten cents for each hundred words ;

Abstracts of title.

5. For each certificate furnished by the Registrar, except those made under sub-sections 1 and 4 of this section, twenty-five cents ;

Certificates.

- Filing plans. 6. For registration of any plan of town or village lots, including all necessary entries connected therewith, \$1 ;
- Statements under Secs. 28 & 31. 7. For furnishing the statement and copies required under sections 28 and 31 of this Act, to be paid by the county treasurer, to which any city, town, township, village or place belongs or is attached, the sum of ten cents for every folio of one hundred words contained in such statement so furnished or copy so made ; and the county treasurer shall also pay such sum as the Inspector may order in writing, specifying the nature of the service under any section of this Act, for repairing any book, or copying, mounting, or binding plans under the provisions of section 31 of this Act ; and towns separated from counties for municipal purposes, and cities in which no separate Registry Office exists shall bear a ratable proportion of the expense thereof, based on the assessment of all the municipalities within the jurisdiction of the county. R. S. O. 1877, c. 111, s. 92 (1-7).
- Affidavits. 8. For drawing each affidavit and swearing the deponent thereto, twenty-five cents ; the same fee to be allowed for administering the oath when that only is required ;
- Showing originals. 9. For exhibiting in the office each original registered instrument, including search for same, ten cents ;
- Certificates of discharge. 10. For registering each certificate of payment of mortgage money, and every other certificate excepting certificates provided for in the next succeeding sub-section, including all entries and certificates thereof, fifty cents ;
- Of payment of taxes. 11. For registering each certificate of payment of taxes, twenty-five cents ;
- Figures, how charged. 12. In abstracts and certificates where figures are used instead of words to denote dates, numbers and quantities, the same shall be charged as if each number, though composed of several figures, were but one word. R. S. O. 1877, c. 111, s. 92 (9-13).
- Table of fees. 96. Every Registrar shall keep posted up in some conspicuous place in his office a printed schedule of the fees and charges authorized under this Act. R. S. O. 1877, c. 111, s. 93.
- Registrars to give statement of fees payable in any matter. 97. Every Registrar shall upon request of the person for whom the service is performed, furnish a statement in detail of the fees charged by him in respect of any matter for which fees are payable under the provisions of this Act. R. S. O. 1877, c. 111, s. 94.
- Recovery of fees from municipal corporations. 98. Should the treasurer of any county or city in which a separate Registry Office is established, on the request of the Registrar for the duties performed according to this Act, refuse to pay the fees and allowances for any services required

by this Act, the Registrar may prove and recover the same and the cost thereof from the corporation of the county or city in any Court of Record in Ontario; and the Inspector's Evidence, certificate of the amount and of the services rendered shall be *prima facie* evidence of the right to recover. R. S. O. 1877, c. 111, s. 95.

99. The Registrar shall not be compelled to register any instrument unless the fees authorized by this Act are first paid thereon. R. S. O. 1877, c. 111, s. 96.

Fees payable before registration.

100. Every Registrar shall keep a separate book in which he shall enter, from day to day, all fees and emoluments received by him by virtue of his office, shewing separately the sums received for registering each instrument, and for searches, and for extracts or copies, and shall make, up to and including the thirty-first day of December of the previous year, a return, under oath, of such fees and emoluments so received to the Lieutenant-Governor, annually, on the fifteenth day of January. R. S. O. 1877, c. 111, s. 97.

Registrars to keep accounts of fees.

Return.

101. Every Registrar shall be entitled to retain to his own use in each year all the fees and emoluments received by him in that year up to \$2,500. R. S. O. 1877, c. 111, s. 98.

Registrar's emolument when fees do not exceed \$2,500.

102. Of the further fees and emoluments received by each Registrar in each year, in excess of \$2,500, not exceeding \$3,000, he shall be entitled to retain to his own use ninety per cent. and no more. R. S. O. 1877, c. 111, s. 99.

When fees are between \$2,500 and \$3,000.

103. Of the further fees and emoluments received by each Registrar in each year, in excess of \$3,000 not exceeding \$3,500, he shall be entitled to retain to his own use eighty per cent. and no more. R. S. O. 1877, c. 111, s. 100.

When fees are between \$3,000 and \$3,500.

104. Of the further fees and emoluments received by each Registrar, in each year, in excess of \$3,500 not exceeding \$4,000, he shall be entitled to retain to his own use seventy per cent. and no more. R. S. O. 1877, c. 111, s. 101.

When fees are between \$3,500 and \$4,000.

105. Of the further fees and emoluments received by each Registrar in each year, in excess of \$4,000 not exceeding \$4,500, he shall be entitled to retain to his own use sixty per cent. and no more. R. S. O. 1877, c. 111, s. 102.

When fees are between \$4,000 and \$4,500.

106. Of the further fees and emoluments received by each Registrar in each year in excess of \$4,500 he shall be entitled to retain to his own use fifty per cent. and no more. R. S. O. 1877, c. 111, s. 103.

When fees exceed \$4,500.

Application of
surplus fees.

107.—(1) On the fifteenth day of January in each year every Registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is Registrar, a duplicate of the return required by this Act, and shall also pay to such treasurer for the uses of the municipality such proportion of the fees and emoluments received by him during the preceding year, as under this Act he is not entitled to retain to his own use.

(2) Where a Registry Division includes a county or part of a county, and a city or town separated from the county for municipal purposes, the amount aforesaid shall be paid to the treasurer of the county and to the treasurer of the city or town for the use of the municipality in the same proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of lands situate in the county, and in respect of lands situate in the city or town. R. S. O. 1877, c. 111, s. 104.

Fees under
ss. 28 or 31,
etc., not in-
cluded in
above provi-
sions.

108. In the fees and emoluments mentioned in the seven next preceding sections of this Act, shall not be included any sums receivable from the municipality for the preparation of abstract indexes, or for work done under sections 28 or 31 of this Act. R. S. O. 1877, c. 111, s. 105.

INSPECTOR OF REGISTRY OFFICES.

Appointment
of Inspector,
and his duties.

109. The Lieutenant-Governor may, from time to time, appoint an Inspector of Registry Offices, whose duty shall be,

Inspection of
building.

1. To make a personal inspection of the building in which each office is kept, and of the books, deeds, memorials and other instruments in each Registry Office ;

Books, etc

2. To see that the proper books are provided, that they are in good order and condition, that the proper entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed and certified, and preserved ;

Office hours.

3. To ascertain that the office is kept duly open at and for the proper times, and that it is at all times duly attended to by the Registrar or his deputy ;

Seals of office.

4. To settle on some uniform device for the official seals, and to see that the Registrars supply themselves therewith ;

New Indexes.

5. To inspect all new abstract and alphabetical indexes, and to settle and certify the sums, if any, chargeable therefor ;

Plans.

6. To ascertain whether the proper plans required by this Act have been filed in the several Registry Offices, and where necessary, to enforce the provisions of the law in that respect, and he may instruct the County Crown Attorney to take the necessary proceedings for that purpose ;

7. To report upon any vacancies by death or otherwise, in the offices of Registrar and Deputy Registrar ;

Reporting
vacancies.

8. To inform the Registrar how and in what manner he shall do any particular act or amend or correct whatever he may find amiss ; and in case he finds the work improperly performed by any Registrar he shall have power to order a new book or books to be prepared and completed by the Registrar at his own expense ;

Instruction of
Registrar in
his duties.

9. To ascertain the sufficiency or insufficiency of the sureties for the Registrar, and whether they are living or dead ; and

Sufficiency or
insufficiency of
sureties.

10. To report upon all such matters, as expeditiously as may be, to the Lieutenant-Governor for his information and decision. R. S. O. 1877, c. 111, s. 106.

Reporting to
Lieutenant-
Governor.

110. A sum not exceeding \$2,000 per annum, which shall include all travelling and other expenses, shall be allowed to the Inspector of Registry Offices. R. S. O. 1877, c. 111, s. 107.

Pay of
Inspector.

SCHEDULE A.

(Section 9.)

FORM OF COVENANT OF REGISTRAR.

Know all men by these presents, that we, *A. B.*, Registrar of
Esq., and *C. D.*, of Esq., and *E. F.*,
Esq., do hereby jointly and severally for our and each of our heirs, ex-
ecutors and administrators, covenant and promise, that the said *A. B.*, as
Registrar of shall well, truly and faithfully perform the duties
and obligations of his office as such Registrar, and that neither he nor his
Deputy shall negligently or wilfully misconduct himself in his said office
to the damage of any person or persons whomsoever ; nevertheless, it is
hereby declared that no greater sum shall be recovered under this cove-
nant against the several parties hereto than the following, that is to
say : against the said *A. B.* in the whole, \$ [the amount fixed by Order
in Council] ; against the said *C. D.* and *D. F.*, \$ respectively [the
amount fixed by Order in Council for each].

In witness whereof we have hereunto set our hands and seals this
day of , A. D. 18 .

Signed, sealed and delivered in presence of

}
R. S. O. 1877, c. 111, Sched. A.

SCHEDULE B.

(Section 9.)

FORM OF AFFIDAVIT OF JUSTIFICATION.

County of } I, *A. B.*, of _____ one of the sureties
 To wit : } in the annexed covenant named, make oath and say as
 follows :

I am seised and possessed to my own use of real (*or real and personal*) estate in Ontario of the actual value of \$ _____ over and above all charges upon, or incumbrances affecting the same.

2. (*Where the party has real estate.*) The said real estate consists of (*describing the property*).

3. I am worth (*the amount for which the party has become liable by the covenant*) \$ _____ over and above my just debts.

4. My post office address is as follows : (*insert name of post office*).

Sworn before me at _____, in the County of _____, this
 day of _____, A.D. 18 _____.

R. S. O. 1877, c. 111, *Sched. B.*

SCHEDULE C.

(Section 16.)

FORM OF REGISTRAR'S OATH OF OFFICE.

ONTARIO.

County of } I [*name and describe deponent*], having been appointed
 To wit : } by the Lieutenant-Governor to the office of Registrar, in and
 for the [*name of Registry Division, etc.*] do swear that I
 will well, truly and faithfully perform and execute all duties
 required of me, under the laws of this Province, pertaining to the said
 office, so long as I continue therein, and that I have not given directly or
 indirectly, nor authorized any person to give, any money gratuity or
 reward whatsoever for procuring the said office for me.

Sworn before us at _____, the _____ day of _____, A.D. 18 _____.
A. B., J.P., }
C. D., J.P., } In and for the said County.

R. S. O. 1877, c. 111, *Sched. C.*

SCHEDULE D.

(Section 27.)

FORM OF CERTIFICATE RESPECTING REGISTRY BOOKS.

This Register contains _____ pages exclusive of index, and
 is to be used in and for the City (*or, Town, Incorporated Village or Town-*
ship) of _____, in the County of _____, for the
 enregistration of deeds, duplicates, and other instruments under the

provisions of *The Registry Act*, and is provided in pursuance of the requirements of the said Act.

Dated this day of , A.D. 18 .
A. B., Judge of the County Court of or

A. B., Warden of the County of

R. S. O. 1877, c. 111, *Sched. D.*

SCHEDULE E.

(Section 36.)

FORM OF AFFIDAVIT OF EXECUTION.

County of } I, , of
 } the of in the
 To Wit. } County of , make oath
 and say :

1. That I was personally present and did see the annexed (or within) (and duplicate, if any, according to the fact) duly signed, sealed and executed by and the parties thereto.

2. That the said (and duplicate, if any, according to the fact) were executed at the of

3. That I know the said parties (or one or more of them, according to the fact).

4. That I am a subscribing witness to the said (and duplicate, according to the fact.)

R. S. O. 1877, c. 111, *Sched. E.*

SCHEDULE F.

(Section 45.)

CERTIFICATE OF COUNTY JUDGE IN LIEU OF AFFIDAVIT OF EXECUTION.

ONTARIO.

County of } I, ,
 To Wit. } Judge of the County Court of the County of ,
 } , certify that, from the proof adduced by (name the person producing the proof, and state the evidence given) I am satisfied of the due execution of the within instrument (or of the instrument whereof the within is a copy, memorial or duplicate, as the case may be). As witness my hand at the day of A. D., 18 .

A. B.,

Judge of the County Court of

R. S. O. 1877, c. 111, *Sched. F.*

SCHEDULE G.

(Sections 57, 60 and 68.)

FORM OF CERTIFICATE OF REGISTRATION.

I certify that the within
 registered in the Registry Office for the
 of in Book for the
 at o'clock of the
 A. D. 18 .
 Number

is duly entered and
 of the County
 of
 day of

Registrar.
 or Deputy Registrar.

R. S. O. 1877, c. 111, *Sched. G.*

SCHEDULE H.

(Section 61.)

FORM OF MINUTE OF REGISTRATION.

Entered and Registered this
 A. D. at day of
 o'clock.

R. S. O. 1877, c. 111, *Sched. H.*

SCHEDULE J.

(Section 69.)

FORM OF DISCHARGE OF MORTGAGE.

To the Registrar of the County of
 I, , of , do certify that has satisfied all
 money due on, or to grow due on (or has satisfied the sum of \$ men-
 tioned in), a certain mortgage made by of , to
 which mortgage bears date the day of A. D. 18 , and
 was registered in the Registry Office for the County of , on
 the day of , A. D. 18 , at minutes past
 o'clock, noon, in Liber for as No. (here mention the day
 and date of registration of each assignment thereof, and the names of the parties,
 or mention that such mortgage has not been assigned, as the fact may be) and
 that I am the person entitled by law to receive the money, and that such
 mortgage, (or such sum of money as aforesaid, or such part of the lands as is
 herein particularly described, that is to say :) is therefore
 discharged.

Witness my hand this

day of

A. D. 18 .
A. B.

One Witness.

}

R. S. O. 1877, c. 111, *Sched. J.*

SCHEDULE K.

(Section 73.)

FORM OF CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the County (Division or City, as the case may be)
of

I, *A. B.*, of Sheriff of the County of
or Bailiff of the (number) Division Court of the County (or City, as the
case may be) of do certify that by virtue of a
writ of execution wherein *C. D.* is plaintiff and *E. F.* defendant, issued
out of Her Majesty's High Court of Justice (or as the case may be) and
to me directed. I seized a certain mortgage made by one *J. H.* of (as des-
cribed in said mortgage) bearing date the day of
A. D. 18 and registered at of the clock in the forenoon,
Liber , for No. (as the case may be) of the
day of in the same year (as the case may be) to *E. F.* of
(as described in the mortgage) the defendant in the said writ of ex-
ecution named, and such mortgage has not been assigned (or has been as-
signed to the defendant and such assignment has been registered as
follows : Here set out date and registration of assignment) and I do further
certify that I have levied from the said mortgagor, his executors, adminis-
trators or assigns (as the case may be) the full amount of said mortgage,
(or \$ parcel of said mortgage,) and that such mortgage is therefore dis-
charged (or that such mortgage is, as to \$ parcel of the moneys
thereby payable, discharged).

As witness my hand and seal of office (or the seal of the said Court.)

This day of A. D. 18

Witness.
L. M.

}

Signed,

A. B.

R. S. O. 1877, c. 111, Sched. K.

SCHEDULE L.

(Section 84.)

FORM OF SURVEYOR'S CERTIFICATE OF PLAN.

I hereby certify that this plan accurately shews the manner in which
the land included therein has been surveyed and subdivided by me ;
and that the said plan is prepared in accordance with the provisions of
The Registry Act.

Dated

18

A. B.

Provincial Land Surveyor.

R. S. O. 1877, c. 111, Sched. L.

SCHEDULE M.

(Section 32.)

FORM OF ABSTRACT INDEX.

Township of Yarmouth, Lot No. , in the 1st Concession.

1	2	3	4	5	6	7	8	9
No. of Instru- ment.	Instru- ment.	Its Date.	Date of Registry.	Grantor.	Grantee.	Quantity of Land.	Consideration in conveyance or amount of mort- gage money.	Remarks.
		Patent, 21st February, 1820,		Crown	John Jones	All of said Lot.	\$300	
54,	B. & S.	10th January, 1835	11th January, 1835	David Brown and wife.	George Smith	N. $\frac{1}{2}$.	\$400	
72	B. & S.	30th May, 1830	15th May, 1838	John Jones and wife—	David Brown	N. $\frac{1}{2}$.	\$500	
460,	B. & S.	23rd June, 1840	23rd June, 1840	George Smith	Charles Gates	N. $\frac{1}{2}$.	\$782	
461	M.	Do do	Do do	Charles Gates and wife.	George Smith	N. $\frac{1}{2}$.	\$500	
490	B. & S.	20th October, 1841	20th October, 1841	John Jones and wife	Charles Gates	S. $\frac{1}{2}$.	\$200	
1009	D. M.	23rd June, 1842	1st July, 1842	George Smith	Charles Gates	N. $\frac{1}{2}$.		D of 461.
2560	B. & S.	25th April, 1855	1st May, 1856	Charles Gates and wife.	Alexander Erie.	All.	\$800	
2875	B. & S.	1st May, 1860	1st May, 1860	Alexander Erie	James Erie	E. $\frac{1}{2}$ of the N. $\frac{1}{2}$ or N. E. $\frac{1}{4}$.	\$1 and nat. love and affection.	

R. S. O. 1877, c. 111, Sched. M.

SCHEDULE N.

(Section 33.)

FORM OF ALPHABETICAL INDEX.

No. of Instrument.	GRANTOR.	GRANTEE.	No. of Instrument.	GRANTEE.	GRANTOR.
	A.			A.	
1011	Abbott, George	Black, John	1029	Appleton, James	Buck, Peter.
1015	Allen, William	Cook, Edward	1039	Angus, Robert	Cooms, Joseph.
1017	Anderson, James	Smith, Thomas	1058	Anson, William	Whalks, Jane.
	B.			B.	
1004	Bernard, John	Green, Edward	1011	Black, John	Abbott, George.
1020	Burns, Robert	Cassels, George	1070	Benson, Jessie	Crooks, Nelson.
1029	Buck, Peter	Appleton, James	1098	Burrows, Joseph	Hinds, Henry.
	C.			C.	
1039	Cooms, Joseph	Angus, Robert	1015	Cook, Edward	Allen, William.
1048	Coffee, Richard	Ingram, Benjamin	1020	Cassels, George	Burns, Robert.
1070	Crooks, Nelson	Benson, Jessie	1118	Castor, Simeon	Philip, Richard.

R. S. O. 1877, c. 111, Sched. N.

SCHEDULE O.

LIST OF REGISTRY DIVISIONS.

Part 1.

The undermentioned TERRITORIAL DIVISIONS, as set forth in Chapter 5 of these Revised Statutes (except as otherwise mentioned), constitute separate registry divisions :—

The Counties of—

- | | |
|--|---------------------------|
| 1. Brant. | 16. Lambton. |
| 2. Bruce. | 17. Leeds. |
| 3. Carleton, excepting the City of
Ottawa. | 18. Lennox and Addington. |
| 4. Dufferin. | 19. Lincoln. |
| 5. Dundas. | 20. Norfolk. |
| 6. Elgin. | 21. Ontario. |
| 7. Essex. | 22. Oxford. |
| 8. Frontenac, excepting the City
of Kingston. | 23. Peel. |
| 9. Glengarry. | 24. Peterborough. |
| 10. Grenville. | 25. Prescott. |
| 11. Haldimand. | 26. Prince Edward. |
| 12. Halton. | 27. Renfrew. |
| 13. Hastings. | 28. Russell. |
| 14. Huron. | 29. Stormont. |
| 15. Kent. | 30. Waterloo. |
| | 31. Welland. |
| | 32. Wentworth. |

The Cities of—

- | | |
|---------------|--------------|
| 33. Kingston. | 35. Ottawa. |
| 34. London. | 36. Toronto. |

The Provisional County of—

37. Haliburton ; and

The Districts of—

- | | |
|----------------|----------------------|
| 38. Algoma. | 41. Parry Sound. |
| 39. Muskoka. | 42. Rainy River, and |
| 40. Nipissing. | 43. Thunder Bay. |

Part 2.

The undermentioned ELECTORAL DISTRICTS, as set forth in Chapter 7 of these Revised Statutes (except as otherwise mentioned), constitute separate registry divisions :—

- | | |
|---|--|
| 44. Durham, East Riding. | 50. Northumberland, West Riding,
and the township of South
Monaghan. |
| 45. Durham, West Riding. | 51. Perth, North Riding, and the
township of Logan. |
| 46. Lanark, North Riding, except-
ing Carleton Place. | 52. Perth, South Riding, excepting
the township of Logan. |
| 47. Lanark, South Riding, and
Carleton Place. | 53. York, North Riding. |
| 48. Middlesex, West Riding. | |
| 49. Northumberland, East Riding. | |
| 54. The East and North Ridings of Middlesex constitute one registry
division ; and | |
| 55. The East and West Ridings of York and the town of Parkdale con-
stitute one registry division. | |

Part 3.

The undermentioned registry divisions are constituted as hereinafter set forth :—

56. The county of Simcoe consists of the townships of Adjala, Essa, Flos, West Gwillimbury, Innisfil, Matchedash, Medonte, Nottawasaga, North Orillia, South Orillia, Oro, Sunnidale, Tay, Tecumseth, Tiny, Tosorontio, and Vespra; the towns of Barrie, Collingwood, Orillia and Penetanguishene, and the incorporated villages of Alliston, Bradford, Midland, Stayner, Beeton and Tottenham.
57. The county of Victoria consists of the townships of Bexley, Carden, Dalton, Digby, Eldon, Emily, Fenelon, Laxton, Longford, Mariposa, Ops, Somerville and Verulam; the town of Lindsay, and the incorporated villages of Bobcaygeon, Fenelon Falls, Woodville and Omemee.
58. Grey, North Riding, consists of the townships of Collingwood, Derby, Euphrasia, Holland, Keppel, St. Vincent, Sarawak, Sullivan and Sydenham, and the towns of Meaford, Owen Sound and Thornbury.
59. Grey, South Riding, consists of the townships of Artemesia, Bentinck, Egremont, Glenelg, Normanby, Osprey and Proton, and the town of Durham.
60. Wellington, North Riding, consists of the townships of Arthur, Minto, Maryborough, Peel and West Luther; the towns of Harriston, Mount Forest and Palmerston, and the incorporated villages of Arthur, Clifford and Drayton.
61. Wellington, South and Centre Ridings, consists of the townships of Guelph, Eramosa, Erin, Nichol, Pilkington, West Garafraxa and Puslinch; the city of Guelph, and the incorporated villages of Elora, Fergus and Erin.

NOTE.—The townships hereinbefore mentioned include all towns and incorporated villages situated within the limits thereof respectively.
R. S. O. 1877, c. 5, s. 1.

CHAPTER 115.

An Act respecting the Custody of Documents relating to Land Titles.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

DEPOSIT OF DOCUMENTS, ss. 3, 4.

DOCUMENTS TO BE NUMBERED AND INDEXED, s. 5.

NOTICE OF DEPOSIT, s. 6.

REGISTRAR'S FEES, ss. 7, 8.

INSPECTION OF DOCUMENTS, s. 9.

EFFECT OF DEPOSIT, ss. 10, 11.

REGISTRAR TO KEEP SAFELY, s. 12.

EXPENSES OF EXECUTORS, s. 13.

REMOVAL OF DOCUMENTS FROM CUSTODY OF REGISTRAR, ss. 14, 15.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.
Rev. Stat. c.
114.

1. This Act may be cited as "*The Custody of Title Deeds Act*," and shall be read as part of *The Registry Act*. 50 V. c. 14, s. 1.

Interpreta-
tion.
Rev. Stat. c.
114.

2. The word "document," herein, shall be held to include the word "instrument," as defined by *The Registry Act*, and also any certificate, affidavit, statutory declaration, or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants, or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, and notices of sale, or other notices necessary to the exercise of any power of sale or appointment or other powers relating to lands. 50 V. c. 14, s. 2.

Person having
custody of
deeds, etc.,
may deposit
them in regis-
try office.

3. Any person having any document, forming or being a title-deed or evidence or muniment of title to land in this Province may deposit the same for safe custody in the office of the registrar of any registry division in which the document or a duplicate or copy or memorial or certificate thereof has been registered; or in case it does not appear by any endorsement thereon, that the same or a duplicate or copy or memorial or certificate thereof has been registered in any registry office in Ontario, the document may be so deposited in the office of the registrar of any registry division in which any land to which the same relates is situate. 50 V. c. 14, s. 3.

4. Upon every such deposit, the person depositing shall deliver to the registrar a requisition in duplicate in the form A hereto; which requisition may include any number of documents; and the registrar shall sign a receipt upon one of the duplicates for the instruments or documents therein mentioned, and shall deliver the receipt to the person by whom the deposit is made. 50 V. c. 14, s. 4.

Requisition to be filed and receipt given.

5.—(1) Upon receiving the requisition and the documents therein mentioned, the registrar shall enter every document in consecutive order in a book to be kept by him for that purpose, to be called the “deposit index” (which may be in the form B hereto), and shall therein number all deposited documents consecutively, and shall endorse on every such document the word “deposited,” with the date of deposit and the number of the entry thereof in the deposit index; and shall file the same in consecutive order according to its number; and shall also endorse on the requisition the numbers so by him placed on the documents therein mentioned; and shall file all the requisitions in consecutive order according to such numbers.

Each document to be numbered and entered in deposit index and filed.

(2) The registrar shall also enter in an alphabetical index to be kept by him for that purpose (and which shall be called the “Alphabetical Deposit Index,”) the number of the document in the deposit index, and the name of every party to the document, or to the action, suit or proceeding to which the document relates, or if the same is a certificate or an affidavit, or a statutory declaration or other proof, as to the birth, baptism, marriage, divorce, death or burial of any person, then the name of such person.

Names to be entered in alphabetical Index.

(3) In case it appears by any certificate of registration endorsed on the document, that the same or a duplicate or a copy or memorial or certificate thereof is registered in his registry office, the registrar shall also enter in the margin of every registry book wherein the same is registered opposite the entry thereof, the words, “See deposit index No. A. D.,” referring to the number of the instrument in the deposit index, and the date of the deposit. 50 V. c. 14, s. 5.

Entry opposite registered instruments.

6.—(1) In case it appears by any certificate of registration endorsed on the document that the same or a duplicate or copy or memorial or certificate thereof is registered in any other registry division, the registrar with whom the same is so deposited shall, within ten days after the deposit send by post to such other registrar a notice thereof in duplicate, in the form C hereto.

Notice to be sent to other registry offices where registered.

(2) On receipt of the notice the registrar receiving the same shall enter in the margin of every registry book wherein the same appears to have been registered, opposite the entry there-

of, the words, "See deposit index in Registry Office, No. A. D," referring to the registry office from which the notice is received, and the number and date of the deposit therein, and he shall forthwith send by post an acknowledgment written upon one of the duplicate notices of the receipt of the notice.

(3) In case such an acknowledgment is not received within fourteen days from the sending of the notice, the registrar sending the notice shall send another like notice, and shall repeat the same every fourteen days till the acknowledgment is received.

(4) Every such notice and acknowledgment shall be post paid and post registered, and a sufficient sum to pay the registrar's fees and the postage and post registration on the acknowledgment thereof shall be sent with the notice.

(5) All notices received from other registrars shall be filed by the registrar receiving the same in the order in which they are received, and all such acknowledgments shall be filed by the registrar receiving the same in the order of the receipt thereof. 50 V. c. 14, s. 6.

Registrar's fees.

7. The registrar with whom the deposit is made, shall be entitled to the following fees to be paid at the time of the deposit by the person depositing the same, that is to say:—

On every requisition.....	20 cents.
On every document deposited therewith..	10 "
For every notice necessary to be sent to other registrars, (not more than one notice to any one registrar to be charged for).....	15 "
Necessary postage and post registration fee on the notices and acknowledgments thereof.....	

50 V. c. 14, s. 7.

Fees to other registrars.

8. The registrar to whom any notice under section 6 of this Act is sent, shall be entitled to a fee of twenty cents for every document, in respect of which he is to make the entries aforesaid. 50 V. c. 14, s. 8.

Deposited documents open to inspection.

9. Any person shall be entitled to inspect and make or obtain copies of or extracts from any such deposited document, in like manner as in the case of instruments registered under the provisions of *The Registry Act*; and the registrar shall be entitled to the same fees in respect thereof, as in the case of registered instruments. 50 V. c. 14, s. 9.

10. The deposit of any document under this Act, shall not be deemed a registration thereof within the meaning of *The Registry Act*; nor shall the admissibility or value of any document as evidence, be deemed to be improved or affected by the deposit. 50 V. c. 14, s. 10.

Deposit not registration and not to affect document as evidence.
Rev. Stat. c. 114.

11. The deposit of a document under the provisions of this Act, shall, while the same continues so deposited, be deemed a sufficient compliance with, and fulfilment of, any covenant or agreement theretofore entered into by any person, to produce or allow the inspection of the document, or the making of any copy of or extract from the same, and shall absolve any person liable for the production or custody thereof from any further liability in respect of such custody or production. 50 V. c. 14, s. 11.

Deposit relieves from liability.

12. The registrar with whom a document is so deposited shall keep the same safely in his office, in like manner and with the same care as the instruments registered in his office; and he and his sureties shall be responsible in respect thereof, in like manner as in respect of instruments registered under *The Registry Act*; and the registrar shall not part with the possession of any such document, unless in accordance with the order of a Court or Judge as hereinafter provided. 50 V. c. 14, s. 12.

Registrar to keep safely.

Rev. Stat. c. 114.

13. An executor or administrator of the estate of a deceased person, and a trustee of a trust estate, may reimburse himself out of such estate any expense which he incurs in or about depositing any documents which may come to his possession or control as such executor, administrator or trustee. 50 V. c. 14, s. 13.

Expenses of executors, etc.

14.—(1) At any time within five years after the deposit of a document under the provisions hereof, any person may apply to the High Court of Justice, or the County Court of the county in which the deposit is made, or to a Judge of either of the said Courts, for the delivery of the document to such person, and the Court or Judge—upon being satisfied that the applicant would, but for the deposit, be solely entitled to the possession of the document, and that the deposit thereof was made without his consent, or the consent of any person entitled at the time of the deposit to any interest therein, and (in case the document relates to other lands than those in which the applicant is interested) that there are reasonably important grounds for removing the document from the custody of the registrar—may direct that the same shall be delivered up by the registrar to the applicant, or to any person the Court or Judge may direct.

Application within 5 years to remove custody.

(2) Before making the order, the Court or Judge may require such notice of the application as to the Court or Judge shall

Notice of application.

seem meet to be given to the person by whom the deposit was made, or to any other person, by advertisement or otherwise, or may dispense with any such notice.

Costs.

(3) The order may direct that all or any part of the costs of the application, or of opposing the same, or in relation thereto, be paid by the person by whom the deposit was made, or by whom the application is made, or by any person to whom notice of the application has been given and may make such order in respect of the costs of the applicant, and of the persons who have been notified, or who may oppose the application, as to the Court or Judge seems meet. 50 V. c. 14, s. 14.

Delivery
under order.

15.—(1) Upon the delivery to the registrar of the order, or a duplicate thereof, within six months after the date thereof, and upon payment to him of the sum of fifty cents, he is to deliver to the person mentioned therein the documents therein directed to be given to him, taking his receipt, or the receipt of his authorized agent therefor, and

Registration
of order.

(2) Shall make an entry in the deposit index, opposite the entry of the document, specifying the date of such delivery, and to whom delivered, the Court or Judge by whom the order was made, and the date of the order, and shall file the order among the requisitions for deposit in the order of the date of receipt thereof. 50 V. c. 14, s. 15.

SCHEDULE.

FORM A.

(Section 4.)

To the registrar of the _____ of _____

I (or we) hereby deposit with you and require you to take into your custody, pursuant to *The Custody of Title Deeds Act*, Chapter 115 of the Revised Statutes of Ontario, 1887, the following instruments and documents, viz. :—

Description of instrument or document.	Names of all parties.	Any other particulars or subject of certificate, affidavit, etc.	Lands in this registry division to which documents relate.	Particulars of registration of registered instruments.			
				Registry division.	Date.	No.	Township, city, town, etc.

Dated _____ (in duplicate)

Signed in presence of me, to whom the depositor, and his residence and occupation are well known.

Signature.
(Residence) Lot Con.
House No. or Street.
(Occupation)

J. P. or Notary Public, or
Mayor or Reeve, or Solicitor of Supreme
Court, or Barrister.

The documents above mentioned, with a duplicate of above requisitions, are this day received by me.

Dated _____

Registrar for
50 V. c. 14, Sched. Form A.

FORM B.

(Section 5.)

DEPOSIT INDEX.

Deposit No.	Description of instrument.	Parties.	Lands in this registry division mentioned.	Any other particulars or subject of certificates, affidavits, etc.	Particulars of registration certificate endorsed.	Date of deposit.	By whom deposited.

50 V. c. 14, Sched. Form B.

FORM C.

(Section 6.)

NOTICE OF DEPOSIT.

To the registrar of

The following instruments, of which the originals, or a duplicate, or memorial, or copy, or certificate, appear to be registered in your registry office, have been deposited in this registry office under *The Custody of Title Deeds Act*.

Deposit index No.	Date of deposit.	Description of instrument.	Parties.	Particulars of registration in your registry division.		
				Registration No.	Date of registration.	Township, city, town, etc.
2146	8th Aug., 1887.	Mortgage.	John Smith to Wm. Jones.			

You are required to enter such deposit, and to acknowledge receipt hereof, under above Act. Enclosed is cents.

Dated at }
Registry Office for } Registrar.

The duplicate of above notice of deposit of (*three*) documents received at the registry office for this day of A.D. 18 , and entry of such deposit has been made in accordance with *The Custody of Title Deeds Act*.

Registrar.

Form of acknowledgment to be put in duplicate notice.

CHAPTER 116.

An Act to simplify Titles and to facilitate the
Transfer of Land.

SHORT TITLE, s. 1.	COSTS, ss. 74, 75.
APPLICATION OF ACT, s. 2.	DOUBTFUL QUESTIONS ARISING ON
INTERPRETATION, s. 3.	TITLE, ss. 76-79.
ENTRY OF LAND ON REGISTER, ss. 4-16.	LAND CERTIFICATES, OFFICE COPIES
LEASEHOLD LAND, ss. 17-22.	OF LEASES AND CERTIFICATES OF
REGISTRATION, HOW EFFECTED, ss.	CHARGE, ss. 80-83.
23-27.	REGISTRY OF SPECIAL HEREDITA-
Liability to easements and other	MENTS, s. 84.
rights, s. 24.	GENERAL PROVISIONS, ss. 85-88.
Notice of determination of incum-	MARRIED WOMEN, s. 89.
brance or lease, ss. 25, 26.	PERSONS UNDER DISABILITY, s. 90.
No acquisition of title by adverse	RESPECTING NOTICES, ss. 91-94.
possession, s. 27.	SPECIFIC PERFORMANCE, ss. 95-96.
TRANSFER AND MORTGAGE OF REGIS-	RECTIFICATION OF REGISTER, ss.
TERED LAND, ss. 28-52.	97-100.
Mortgage of registered land, ss.	RESPECTING FRAUD, ss. 101-106.
28-35.	ASSURANCE FUND, ss. 107-108, 142.
Transfer of land, ss. 36-40.	WITHDRAWING LAND FROM REGISTRY,
Transfer of leaseholds, ss. 41-46.	s. 109.
Transfer of charges, s. 47.	ADMINISTRATION OF LAW AND MIS-
Time of registration, s. 48.	CELLANEOUS, ss. 110-131.
Transmission of land and charges	EXTENSION TO OTHER LOCALITIES AND
on death of owner, ss. 49-52.	EXPENSES :
SALE UNDER EXECUTION, ss. 53-54.	Council may pass by-law adopting
MECHANICS' LIENS, s. 55.	Act, s. 132 (1).
SALE FOR TAXES, s. 56.	Expenses not covered by fees to be
OTHER DEALINGS WITH REGISTERED	paid by corporation, s. 132 (2).
LAND, ss. 57-66.	Proclamation extending operation
Notices of leases, ss. 58-59.	of Act, s. 133.
Notice of estates in dower or by	Surplus Registry fees applicable to
the curtesy, s. 60.	expenses, s. 134.
Caution against registered deal-	LOCAL MASTERS OF TITLES, ss. 135-
ings, ss. 61-63.	137.
Inhibition against registered deal-	INSPECTOR OF LAND TITLES' OFFICES,
ings without order of Court, s.	s. 138.
64.	DUTIES AND POWERS OF LOCAL
Power of registered owner to	MASTERS, ss. 139, 140.
impose restrictions, ss. 65-66.	REGISTRATION OF NEWLY PATENTED
NOTICE BY REGISTRATION, s. 67.	LANDS IN DISTRICTS, ss. 141-144.
CAUTION AGAINST ENTRY OF LANDS	RULES, p. 1129.
ON REGISTER, ss. 68-73.	FORMS, p. 1143.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

PRELIMINARY.

1. This Act may be cited as "*The Land Titles Act.*" 48 V. Short title.
c. 22, s. 1.

Application
of Act.

2. This Act shall apply to the city of Toronto and county of York, and to the districts of Algoma, Thunder Bay (including Rainy River), Muskoka, Parry Sound and Nipissing only, and to any other counties, cities and separated towns to which this Act may be extended under the provisions hereinafter contained. 48 V. c. 22, s. 2, (1); 50 V. c. 16, s. 1.

Interpreta-
tion.

3. When the words following occur in this Act or in the Schedules thereto, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears.

"Court" means the High Court of Justice; and any jurisdiction of the court under this Act may be exercised by any judge of the said court; and may be exercised by him whether sitting in open court or in chambers.

"Owner" means owner in fee simple; "Transfer" includes the whole estate and interest of the transferor.

"Person" includes a corporation or any body of persons unincorporate.

"Master of Titles," and "general rules" mean the Master of Titles, and general rules in this Act respectively in that behalf mentioned.

"Prescribed" means prescribed by this Act or by any general rules made in pursuance of this Act.

"Registered" means registered under this Act.

"Sworn Valuator" means a person appointed by the Master of Titles, with the approval of the Lieutenant-Governor in Council, to value land under this Act. 48 V. c. 22, s. 3.

PART I.

ENTRY OF LAND ON REGISTER OF TITLE.

Land registry
continued.

Imp. 38 & 39
V. c. 87, ss.
5, 106.

4. The Land Registry heretofore established, is continued and shall be conducted by an officer to be called the Master of Titles, who shall be a barrister of not less than ten years' standing at the Bar of Ontario, and shall be appointed by the Lieutenant-Governor by commission under the Great Seal of the Province. 48 V. c. 22, s. 4.

Application
for registra-
tion with
absolute or
possessory
title.

Imp. 38 & 39
V. c. 87, s. 5.

5. Any person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether subject or not to incumbrances, or any person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether subject or not to incumbrances, may apply to the Master of Titles to be registered under this Act, or to have registered in his stead any nominee or nominees, as owner or owners of such land, with an Absolute, Qualified or Possessory title, as the case may be. 48 V. c. 22, s. 5.

6. Any person who has contracted to buy for his own benefit an estate in fee simple in land, whether subject or not to incumbrances, may also apply as aforesaid, provided the vendor consents to the application. 48 V. c. 22, s. 6.

Application
by purchaser.
Imp. 38 & 39
V. c. 87, s. 5.

7. Her Majesty's Attorney-General for Canada, or Her Majesty's Attorney-General for Ontario, may apply in like manner in respect to the title of the Crown to any land; and the practice and procedure upon the application shall be the same as in ordinary cases. 48 V. c. 22, s. 7.

Application
by Crown.
Imp. 38 & 39
V. c. 87, s. 65.

Trustees and Mortgagees.

8.—(1) Any person holding land on trust for sale, and any trustee, mortgagee, or other person having a power of selling land, may authorize the purchaser to make an application to be registered as first owner with any title which an owner is authorized to be registered with under this Act, and may consent to the performance of the contract being conditional on his being so registered; or any of such persons, except a mortgagee, may himself apply to be registered as such owner with the consent of the persons (if any) whose consent is required to the exercise by the applicant of his trust or power of sale.

Trustees, etc.,
may sell by
medium of
registry, or
may be them-
selves regis-
tered.
Imp. 38 & 39
V. c. 87, s. 68.

(2) A mortgagee having a power of selling land as aforesaid, may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any title as aforesaid.

(3) The amount of all costs, charges, and expenses properly incurred by such person, in or about the application, shall be ascertained and declared by the Master of Titles, and shall be deemed to be costs, charges, and expenses properly incurred by such person in the execution of his trust or in pursuance of his power; and such person may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he shall not be liable to any account in equity in respect thereof. 48 V. c. 22, s. 71.

Part Owners.

9. Any two or more persons entitled for their own benefit concurrently or successively, or partly in one mode and partly in another, to such estates, rights, or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as owner of the land, may (subject as in this Act mentioned with respect to the number of persons to be registered in respect of the same land) apply to the Master of Titles to be registered as joint owners, in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that any individual owner may be registered. 48 V. c. 22, s. 72.

Registration
of part owners.
Imp. 38 & 39
V. c. 87, s. 69.

Evidence
where absolute
title required.

Imp. 38 & 39
V. c. 87, s. 6.

10. Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple until and unless the title is approved by the Master of Titles. 48 V. c. 22, s. 8.

Estate of first
registered
owner with
absolute title.
Imp. 38 & 39
V. c. 87, s. 7.

11. The first registration of any person as owner of land (in this Act referred to as first registered owner) with an Absolute title, shall vest in the person so registered an estate in fee simple in such land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows :

1. To the incumbrances, if any, entered on the register ;

2. To such liabilities, rights and interests, if any, as are by this Act declared for the purposes of the Act not to be incumbrances, unless, under the provisions of this Act, the contrary is expressed on the register.

3. Where such first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, to any unregistered estates, rights, interests or equities to which such persons may be entitled ; but free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors, which are within the legislative jurisdiction of this Province. 48 V. c. 22, s. 9.

Evidence
where pos-
sessory title
required.

Imp. 38 & 39
V. c. 87, s. 6.

12. Where a possessory title only is required, the applicant or his nominee may be registered as owner of the fee simple on giving such evidence of title, and serving such notices, if any, as may for the time being be prescribed. 48 V. c. 22, s. 10.

Estate of first
registered
owner with
possessory
title.

Imp. 38 & 39
V. c. 87, s. 8.

13. The registration of any person as first registered owner of land with a possessory title only, shall not affect or prejudice the enforcement of any estate, right, or interest adverse to or in derogation of the title of such first registered owner, and subsisting or capable of arising at the time of registration of such owner ; but, save as aforesaid, shall have the same effect as registration of a person with an Absolute title. 48 V. c. 22, s. 11.

A qualified
title may be
registered in
certain cases.

Imp. 38 & 39
V. c. 87, s. 9.

14.—(1) Where on the examination of the title it appears to the Master of Titles that the title can be established only for a limited period, or subject to certain reservations, the Master, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right, or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register.

(2) A title registered subject to such excepted estate, right, or interest shall be called a qualified title.

(3) The registration of a person as first registered owner of land with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right, or interest appearing by the register to be excepted. 48 V. c. 22, s. 12.

(4) Where the existence of any easement is proved the Master of Titles may, if he thinks fit, enter notice thereof on the register. Notice of easement. Imp. 38 & 39 V. c. 87, s. 18, sub-s. d.

(5) Where title is shewn to any easement appurtenant to the land being registered, the same may be stated in the entry of ownership and land certificate. 50 V. c. 15, s. 10 (2, 3). Statement of easement on certificate, etc.

15. On the entry of the name of the first registered owner of freehold land on the register, the Master of Titles shall, if required by the owner, deliver to him a Certificate, in this Act called a Land Certificate, in the prescribed form; the Certificate shall state whether the title of the owner therein mentioned is absolute, qualified, or possessory. 48 V. c. 22, s. 13. Land certificate given on registration. Imp. 38 & 39 V. c. 87, s. 10.

16. A certificate by the Master of Titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situated; and thereafter *The Registry Act* shall cease to apply to the said land. 48 V. c. 22, s. 14. Registry Act (Rev. Stat. c. 114), not to apply to land under this Act.

PART II.

LEASEHOLD LAND.

17. A separate register shall be kept of leasehold land, and any of the following persons; that is to say, Application for registration with or without a declaration of title of lessor to grant lease. Imp. 38 & 39 V. c. 87, s. 11.

1. Any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which more than 21 are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the portion unexpired of the current term to 21 years or over, or to a renewal for a life or lives, whether subject or not to incumbrances; and

2. Any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease as is described in this section, whether subject or not to incumbrances; and

3. Any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease as is described in this section, whether subject or not to incumbrances;

May apply to the Master of Titles to be registered, or to have registered in his stead any nominee or nominees not exceeding the prescribed number, as owner or owners of such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land, and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held ;

- (a) Provided that in the case of leasehold land contracted to be bought, the vendor consents to the application ;
- (b) Every applicant for registration of leasehold land shall deposit with the Master of Titles the lease of the land in respect of which the application is made, or if such lease is proved to the satisfaction of the Master of Titles to be lost, a copy of such lease or of a counterpart thereof, verified to the satisfaction of the Master of Titles ; and such lease or attested copy is in this Act referred to as the registered lease ;
- (c) Leasehold land held under a lease containing an absolute prohibition against alienation, shall not be registered in pursuance of this Act ;
- (d) Leasehold land held under a lease containing a prohibition against alienation without the license of some other person, shall not be registered under this Act until and unless provision is made in the prescribed manner for preventing alienation without such license, by entry in the register of a restriction to that effect, or otherwise. 48 V. c. 22, s. 15 ; 49 V. c. 16, s. 45.

Evidence of title required on application.

Imp. 38 & 39 V. c. 87, s. 12.

18. An applicant or his nominee shall not be registered as owner of leasehold land until and unless the title to such land is approved by the Master of Titles : and further, if he apply to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land is held, until and unless the lessor, after an examination of his title by the Master of Titles, is declared to have had an absolute or qualified title to grant the lease under which the land is held. 48 V. c. 22, s. 16.

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease.

Imp. 38 & 39 V. c. 87, s. 13.

19. The registration under this Act of any person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held, shall be deemed to vest in such person the possession of the land comprised in the registered lease relating to such land for all the leasehold estate therein described, with all implied or expressed rights, privileges and appurtenances attached to such estate, but subject as follows :

1. To all implied and express covenants, obligations and liabilities incident to such leasehold estate ; and

2. To the incumbrances (if any) entered on the register ; and

3. (Unless the contrary is expressed on the register) to such liabilities, rights and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land ; and

4. Where such first proprietor is not entitled for his own benefit to the land registered as between himself and any persons claiming under him, to any unregistered estates, rights, interests or equities to which such persons may be entitled ;

But free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors, in case the land is within the jurisdiction of this Legislature in that behalf. 48 V. c. 22, s. 17.

20. The registration of any person under this Act as first registered owner of leasehold land without a declaration of the title of the lessor, shall not affect or prejudice the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held ; but, save as aforesaid, shall have the same effect as the registration of any person under this Act as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. 48 V. c. 22, s. 18.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease.
Imp. 38 & 39 V. c. 87, s. 14.

21. Where an absolute title is required, and on the examination of the title of any lessor by the Master of Titles, it appears to him that the title of such lessor to grant the lease under which the land is held can be established only for a limited period, or subject to certain reservations, the Master of Titles may, by an entry made in the register, except from the effect of registration, any estate, right, or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register ; and a title of a lessor registered subject to such excepted estate, right, or interest is in this Act referred to as a qualified title ; and the registration of a person as first registered owner of the leasehold land with a declaration that the lessor had a qualified title to grant the lease under which the land is held, shall have the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that registration with the declaration of a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. 48 V. c. 22, s. 19.

Lessor may be declared to have a qualified title to grant lease in certain cases.
Imp. 38 & 39 V. c. 87, s. 15.

Office copy of
lease given on
registration.

Imp. 38 & 39
V. c. 87, s. 16.

22. On the entry of the name of the first registered owner of leasehold land on the register, the Master of Titles shall, if required by the owner, deliver to him a copy of the registered lease, in this Act called an office copy, authenticated in the prescribed manner, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to such lease entered in the register. 48 V. c. 22, s. 20.

PART III.

REGISTRATION, HOW EFFECTED.

Regulations as
to examination
of title by
Master.

Imp. 38 & 39
V. c. 87, s. 17.

23. The examination by the Master of Titles of a title under this Act shall be conducted in the prescribed manner, provided as follows:

1. Due notice shall be given where the giving of such notice is prescribed; and sufficient opportunity shall be afforded to any persons desirous of objecting, to come in and state their objections to the Master of Titles.

2. The Master of Titles shall have jurisdiction to hear and determine any such objections, subject to an appeal to the Court in the prescribed manner and on the prescribed conditions.

3. If the Master of Titles, upon the examination of any title, is of the opinion that the title is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of such title, or may require the applicant to apply to the Court, upon a statement signed by the Master, for its sanction to the registration.

Rev. Stat. c.
112, s. 1.

4. It shall not be necessary to produce any evidence which, by section 1 of *The Act to amend the law of Vendor and Purchaser and to Simplify Titles*, is dispensed with as between vendor and purchaser, nor to produce or account for the originals of any registered deeds, documents or instruments, unless where the Master of Titles otherwise directs.

5. The Master of Titles in investigating the title may receive and act upon any evidence which is now received by any of the Courts on a question of title; or any evidence which the practice of English conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of English conveyancers, provided the same satisfies him of the truth of the facts intended to be made out thereby.

6. The said Master of Titles may refer to and act upon not only the evidence adduced before him in the proceeding in which such evidence is adduced, but also any evidence adduced before him in any other proceeding wherein the facts to which such evidence relates were or are in question. 48 V. c. 22, s. 21.

7. A person shall not be registered as owner of land until, if required by the Master of Titles, he has produced to him such documents of title as will in the opinion of the Master of Titles when stamped or otherwise marked, give notice to any purchaser or other person dealing with such land of the fact of the registration, and the Master of Titles shall stamp or otherwise mark the same accordingly, or until he has otherwise satisfied the Master of Titles that the fact of such registration cannot be concealed from a purchaser or other person dealing with the land. 48 V. c. 22, s. 74.

Deeds to be marked with notice of registration under this Act.

Imp. 38 & 39 V. c. 87, s. 72.

24—(1) All registered land shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following liabilities, rights, and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed incumbrances within the meaning of this Act; (that is to say)—

Liability of registered land to easements and certain other rights.

Imp. 38 & 39 V. c. 87, s. 18.

1. Municipal taxes and water rates, for the current year;
2. Any municipal charges, rates or assessments theretofore imposed for local improvements, and payable during the current year or afterwards;
3. Any public highway, any right of way, water-course, and right of water, and other easements;
4. Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the registered land; and the description of the land shall not, as against adjoining owners, be conclusive as to the boundaries or extent thereof;
5. Any lease or agreement for a lease, for a period yet to run, of not exceeding three years, where there is actual occupation under the same;
6. Any right of the wife or husband of the person registered as owner to dower or curtesy (as the case may be) in case of surviving such owner;
7. Any right of appropriation which may by Statute be vested in any person, or body corporate.

(2) If the applicant desires the certificate to declare the title to be free from the first six of the said particulars, or any of them, his application shall so state, and the investigation shall proceed accordingly. 48 V. c. 21, s. 22.

Determination of Incumbrances or Leases existing at First Registration.

Discharge of
incumbrance.

Imp. 38 & 39
V. c. 87, s. 19.

25. Where upon the first registration of any land, notice of an incumbrance affecting such land has been entered on the register, the Master of Titles shall, on proof to his satisfaction of the discharge of such incumbrance, notify in the prescribed manner on the register, by cancelling the original entry or otherwise, the cessation of such incumbrance. 48 V. c. 22, s. 23.

Determina-
tion of lease.

Imp. 38 & 39
V. c. 87, s. 20.

26. The Master of Titles shall, on proof to his satisfaction of the determination of any lease of registered land existing at first registration, notify in the prescribed manner on the register, the determination of such lease. 48 V. c. 22, s. 24.

Adverse Possession as against Registered Owner.

No acquisition
of title by
adverse pos-
session.

Imp. 38 & 39
V. c. 87, s. 21.

27.—(1) A title to any land adverse to or in derogation of the title of the registered owner shall not be acquired by any length of possession.

(2) But this section shall not prejudice, as against any person registered as first owner of land with a possessory title only, any adverse claim in respect of length of possession of any other person who was in possession of the land at the time when the registration of such first owner took place. 48 V. c. 22, s. 25.

PART IV.

TRANSFER AND MORTGAGE OF REGISTERED LAND.

Mortgage of Registered Land.

Creation of
charges, and
delivery of
certificate of
charge.

Imp. 38 & 39
V. c. 87, s. 22.

28.—(1) Every registered owner of land may, in the prescribed manner, charge the land with the payment at an appointed time of any principal sum of money either with or without interest, or as security for any other purpose, and with or without a power of sale to be exercised at or after a time appointed.

(2) The charge shall be completed by the Master of Titles entering on the register the person in whose favour the charge is made as the owner of the charge, and the particulars of the charge, and of the power of sale, if any.

(3) The Master of Titles shall also, if required, deliver to the owner of the charge a certificate of charge, in the prescribed form. 48 V. c. 22, s. 26.

29. Where a registered charge is created on land, there shall be implied on the part of the person being registered owner of the land at the time of the creation of the charge, his heirs, executors, and administrators (unless there be an entry on the register negating the implication), as follows:—

Implied covenant to pay charges.

Imp. 38 & 39
V. c. 87, s. 23.

1. A covenant with the registered owner for the time being of the charge to pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land and that in case of default all payments made by the owner of the charge may be added to the principal sum and bear interest.

2. A covenant, if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid. 48 V. c. 22, s. 27.

3. Where any charge, whether under seal or not, is expressed to be made in pursuance of *The Act respecting Short Forms of Mortgages*, or refers thereto, and contains any form of words contained in items numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16, of column one, of schedule B to the last mentioned Act, or to the like effect, whether expressed in the first or third person, such words shall have the same meaning and effect as the words under the corresponding number in column two in the said schedule; the directions in the said schedule shall also apply to the said charge. 50 V. c. 15, s. 11.

Provision where charge expressed to be made under Rev. Stat. c. 107.

30. Where a registered charge is created on any leasehold land, there shall be implied on the part of the person being registered owner of such leasehold at the time of the creation of the charge, his heirs, executors, and administrators, unless there be an entry on the register negating the implication, as follows:—

Implied covenant in case of leaseholds to pay rent, etc., and indemnify owner of charge

Imp. 38 & 39
V. c. 87, s. 24.

1. A covenant with the registered owner for the time being of the charge, that the person being registered owner of such leasehold at the time of the creation of the charge, his executors, administrators and assigns, will pay, perform and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed;

2. And will keep the owner of the charge, his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims, on account of the non-payment of the said rent, or any part thereof, or the breach of the said covenants or conditions, or any of them. 48 V. c. 22, s. 28.

31. Subject to any entry to the contrary on the register, the registered owner of a registered charge may, for the purpose of obtaining satisfaction of any moneys due to him under the charge, at any time during the continuance of his charge,

Entry by owner of charge.

Imp. 38 & 39
V. c. 87, s. 25.

enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any persons appearing on the register to be prior incumbrancers, and to the liability attached to a mortgagee in possession. 48 V. c. 22, s. 29.

Foreclosure by owner of charge.

Imp. 38 & 39
V. c. 87, s. 26.

32. Subject to any entry to the contrary on the register the registered owner of a registered charge may enforce a foreclosure or sale of the land charged, in the same manner and under the same circumstances in and under which he might enforce the same if the land had been transferred to him by way of mortgage, subject to a proviso for redemption on payment of the money named at the appointed time. 48 V. c. 22, s. 30.

Remedy of owner of charge with a power of sale.

Imp. 38 & 39
V. c. 87, s. 27.

33. Subject to any entry to the contrary on the register, the registered owner of a registered charge with a power of sale may, at any time after the expiration of the appointed time, sell and transfer the land (that is, the interest therein which is the subject of the charge), or any part of such land, in the same manner as if he were the registered owner of the land, to the extent of the interest therein aforesaid. 48 V. c. 22, s. 31.

Priority of registered charges.

Imp. 38 & 39
V. c. 87, s. 28.

34. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created. 48 V. c. 22, s. 32.

Discharge to be notified on register.

Imp. 38 & 39
V. c. 87, s. 28.

35—(1) The Master of Titles shall, on the requisition of the registered owner of any land and on due proof of the satisfaction of a charge thereon, notify on the register in the prescribed manner, by cancelling the original entry or otherwise, the cessation of the charge; and thereupon the charge shall be deemed to have ceased. 48 V. c. 22, s. 33.

(2) The Master of Titles may in like manner notify the cessation of any other incumbrance. *New.*

Transfers after land is brought under this Act.

Transfer of land, and delivery of land certificate.

Imp. 38 & 39
V. c. 87, s. 29.

36.—(1) Every registered owner of land may, in the prescribed manner, transfer such land or any part thereof.

(2) The transfer shall be completed by the Master of Titles entering on the register the transferee as owner of the land transferred; and until such entry is made the transferor shall be deemed to remain owner of the land.

(3) Upon completion of the registration of the transferee, the Master of Titles shall, if required, deliver to him a land certificate in the prescribed form.

(4) Where part only of the land is transferred, the Master of Titles shall also, if required, deliver to the transferor a land certificate containing a description of the land retained by him. 48 V. c. 22, s. 34.

37. A transfer for valuable consideration of land registered with an absolute title shall, when registered, confer on the transferee an estate in fee simple in the land transferred, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows:—

Estate of transferee for valuable consideration of land with absolute title.

1. To the incumbrances, if any, entered on the register; and

Imp. 38 & 39
V. c. 87, s. 30.

2. To such liabilities, rights, and interests, if any, as are by this Act declared for the purposes of the Act not to be incumbrances (unless the contrary is expressed on the register),

But free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors, which are within the legislative jurisdiction of this Province. 48 V. c. 22, s. 35.

38. A transfer for valuable consideration of land registered with a qualified title shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with an absolute title, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. 48 V. c. 22, s. 36.

Estate of transferee for valuable consideration of land with qualified title.

Imp. 38 & 39
V. c. 87, s. 31.

39. A transfer for valuable consideration of land registered with a possessory title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the registration of such owner; but, save as aforesaid, shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with an absolute title. 48 V. c. 22, s. 37.

Estate of transferee for valuable consideration of land with possessory title.

Imp. 38 & 39
V. c. 87, s. 32.

40. A transfer of land registered under this Act, made without valuable consideration shall, so far as the transferee is concerned, be subject to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, have the same effect as a transfer of the same land for valuable consideration. 48 V. c. 22, s. 38.

Estate of voluntary transferee of land.

Imp. 38 & 39
V. c. 87, s. 33.

Transfers of leaseholds under this Act.

Transfer of
leasehold
land and
delivery of
office lease.

Imp. 38 & 39
V. c. 87, s. 34.

41.—(1) Every registered owner of any leasehold land may, in the prescribed manner, transfer the whole of his estate in such land or in any part thereof.

(2) The transfer shall be completed by the Master of Titles entering on the register the transferee as owner of the leasehold transferred, but until such entry is made the transferor shall be deemed to remain owner.

(3) Upon completion of the registration of the transferee, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee shall be entitled to the office copy of the registered lease.

(4) If a part only is transferred, the Master of Titles shall, if required according to any agreement that has been entered into between the transferor and transferee, deliver to the one the office copy of the registered lease and to the other a fresh office copy of such lease, each of such copies shewing, by endorsement or otherwise, the parcels of which the person to whom such copy is delivered is the registered owner. 48 V. c. 22, s. 39.

Estate of
transferee for
valuable con-
sideration of
leasehold land
with a declara-
tion of abso-
lute title of
lessor.

Imp. 38 & 39
V. c. 87, s. 35.

42. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held shall, when registered, be deemed to vest in the transferee the possession of the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject as follows:

1. To all implied and express covenants, obligations, and liabilities incident to such estate;

2. To the incumbrances (if any) entered on the register;

3. To such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared for the purposes of the Act not to be incumbrances in the case of registered freehold land (unless the contrary is expressed on the register);

But free from all other estates and interests whatsoever including any estates and interests of Her Majesty, her heirs and successors, which may be subject to the legislative authority of this Province. 48 V. c. 22, s. 40.

Estate of
transferee for
valuable con-
sideration of
leasehold land
without a
declaration of
title of lessor.
Imp. 38 & 39
V. c. 87, s. 37.

43. A transfer for valuable consideration of leasehold land registered without a declaration of the title of the lessor, shall not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall, when registered, have the same effect as a transfer for valuable

consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. 48 V. c. 22, s. 41.

44. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. 48 V. c. 22, s. 42.

Estate of transferee for valuable consideration of leasehold land with a declaration of qualified title of lessor.

Imp. 38 & 39 V. c. 87, s. 36.

45. A transfer of a registered leasehold interest in land made without valuable consideration shall, so far as the transferee is concerned, be subject to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, save as aforesaid, shall, when registered, in all respects and in particular as respects any registered dealings on the part of the transferee, have the same effect as a transfer of the same land for valuable consideration. 48 V. c. 22, s. 43.

Estate of voluntary transferee of leasehold land.

Imp. 38 & 39 V. c. 87, s. 38.

46. On the transfer of any registered leasehold interest in land under this Act, unless there be an entry on the register negating such implication, there shall be implied as follows:—

Implied covenants on transfer of leasehold estates.

1. On the part of the transferor, a covenant with the transferee that,—notwithstanding anything by such transferor done, omitted, or knowingly suffered,—the rents, covenants, and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

Imp. 38 & 39 V. c. 87, s. 39.

2. On the part of the transferee, a covenant with the transferor, that he, the transferee, his executors, administrators, or assigns, will pay, perform, and observe the rents, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor, his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims on account of the non-payment of the said rent or any part thereof, or the breach of the said covenants or conditions, or any of them. 48 V. c. 22, s. 44.

Transfer of Charges.

47.—(1) The registered owner of any charge may, in the prescribed manner, transfer such charge to another person as owner.

Transfer of charges on register.

(2) The transfer shall be completed by the Master of Titles entering on the register the transferee as owner of the charge transferred.

Imp. 38 & 39 V. c. 87, s. 40.

(3) The Master of Titles shall also, if required, deliver to the transferee a fresh certificate of charge.

(4) The transferor shall be deemed to remain owner of such charge until the name of the transferee is entered on the register in respect thereof. 48 V. c. 22, s. 45.

Time of Registration.

Priority.

48. The day, hour and minute, of the receipt of each instrument and copy of writ shall be noted thereon, and for the purpose of priority between mortgagees, transferees and others, the time of the receipt shall be deemed the time of registration. 50 V. c. 15, s. 12.

Transmission of Land and Charges on Owner's Death.

Transmission
on death of
freehold land.
Imp. 38 & 39
V. c. 87, s. 41.

49. On the death of the sole registered owner, or of the survivor of several joint registered owners, of any freehold land, such person shall be registered as owner, in the place of the deceased owner or owners, as may on the application of any person interested in such land, be appointed by the Master of Titles, regard being had to the rights of the several persons interested in the land, and in particular to the selection of any such persons as may for the time being appear to the Master of Titles to be entitled, according to law, to be so appointed: subject to an appeal to the Court in the prescribed manner by any person aggrieved by any order of the Master under this section. 48 V. c. 22, s. 46.

Transmission
on death of
leasehold land
or of charge.
Imp. 38 & 39
V. c. 87, s. 42.

50. On the death of the sole registered owner, or of the survivor of several joint registered owners of any leasehold land or of any charge, the executor or administrator of such sole deceased owner, or of the survivor of such joint owners, shall be entitled to be registered as owner in his place. 48 V. c. 22, s. 47.

Nature of title
of registered
fiduciary
owner.

Imp. 38 & 39
V. c. 87, s. 46.

51. Any person registered in the place of a deceased owner shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law, and subject to any unregistered estates, rights, interests, or equities subject to which the deceased owner held the same; but, save as aforesaid, he shall in all respects, and in particular as respects any registered dealings with such land or charge, be in the same position as if he had taken such land or charge under a transfer for a valuable consideration. 48 V. c. 22, s. 48.

Evidence of
transmission
of registered
ownership.
Imp. 38 & 39
V. c. 87, s. 47.

52. The fact of any person having become entitled to any land or charge in consequence of the death of any registered owner, shall be proved in the prescribed manner. 48 V. c. 22, s. 49.

Sales under Execution.

53.—(1) The sheriff, forthwith after the delivery to him of any execution or other writ, and any renewal thereof, affecting registered land, shall deliver or transmit by registered letter to the Master of Titles a copy of the writ certified under his hand; and no land registered under this Act shall be bound by any such writ until such copy has been received by the Master; and from and after the receipt by him of the copy, no transfer by the execution debtor shall be effectual, except subject to the rights of the execution creditor under the writ. Notice of executions.

(2) The Master of Titles shall keep a book in the prescribed form, in which shall be entered a record of all writs received by him from the sheriff as aforesaid.

(3) No sale or transfer under any such writ shall be valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding the purchaser may have had notice of the writ.

(4) Upon production to the Master of Titles of sufficient evidence of the satisfaction of any such writ, he shall cause an entry to be made in the said book to that effect; and on such entry such writ shall be deemed to be satisfied.

(5) The sheriff shall be entitled to a fee of fifty cents for each writ transmitted by him to the Master of Titles in manner aforesaid. 48 V. c. 22, s. 51.

(6) Every writ and renewal of a writ shall be presumed to have been spent, and the delivery or transmission of a copy thereof shall cease to have effect, at the expiration of two years from the date of the writ or renewal as appearing in the copy transmitted. *New.* Expiry of writ.

(7) Where an execution or other writ is issued against the registered owner under a different name from that under which he or she is registered, the execution shall have no effect under this Act, unless the person who sues out the writ serves a notice on the Master of Titles, stating the name under which the execution debtor is registered, and otherwise in the form or to the effect prescribed, or unless a like notice is written upon the copy of the writ. Notice to Master where writ issues against owner under a different name from that on the register.

(8) Where a transferor or transferee of land, or maker or owner of a charge, claims that a writ apparently affecting land does not affect the land or charge, he shall produce such evidence thereof as the Master may consider necessary, and the Master may require all parties interested to be notified of the application to register, without reference to the writ, the instrument under which the claim is made, and the Master may either himself decide the question or may direct an issue or case to be tried and may make such order as to costs as he deems just. 50 V. c. 15, s. 13. Provision in case it is claimed that land is not affected by a writ apparently affecting same.

Sale under
execution.

54. Where any land which has been registered under this Act shall be sold by the sheriff under execution, the Master of Titles shall, upon the production to him of the transfer of the same by the sheriff in the prescribed form, with proof of the due execution thereof, cause a notice to be mailed to the proper post-office address of the person whose interest in the land shall have been sold; and after the expiration of two weeks from the mailing of the notice, and, on proof to his satisfaction of the payment of all municipal taxes, except the taxes for the current year, and of all charges, rates, or assessments imposed for local improvements, and due or payable up to the end of the preceding year, and if no other person has become entitled meanwhile for want of entry of the said writ or otherwise, the Master of Titles shall register the purchaser as the owner of the land, and shall, if required, issue to him a certificate in the prescribed form. 48 V. c. 22, s. 52.

Mechanics' Liens.

Liens under
Rev. Stat. c.
126, where
land regis-
tered under
this Act.

55.—(1) In the case of land registered under this Act, if a person entitled to a lien on the land, under *The Mechanics' Lien Act*, shall lodge with the Master a claim of lien, supported by an affidavit to the same effect, as is required for registration under the said last mentioned Act, such claim shall have the same effect as registration has under the said *Mechanics' Lien Act*, and be enforced within the same time, and discharged in like manner. 49 V. c. 16, s. 46.

(2) The claim of lien shall contain a reference to the number of the parcel of the land upon which the claim is made, and to the register in which such land is entered in the office of Land Titles.

(3) Sections 20 to 27, both inclusive, of *The Mechanics' Lien Act*, shall apply to liens which are or may be registered under this Act. *New.*

Sales for Taxes.

Sale for taxes.

56. Where any land which has been registered under this Act shall be sold for taxes, the purchaser may at any time after the sale lodge a caution against the transfer of the land; and upon the completion of the time allowed by law for redemption, and upon the production of the transfer of the land in the prescribed form, with proof of the due execution thereof by the proper officer, the Master of Titles shall cause a notice to be mailed to the proper post-office address of the several persons who appear upon the register to be interested in the land; and after the expiration of three months from the mailing of the notice, shall register the purchaser at the sale as owner of the land, with an absolute title; and shall, if required, issue to the purchaser a certificate of title in the prescribed form, unless

the registration shall in the meantime be stayed by the order of the Court; and in that case the registration shall not be made, nor shall the certificate be issued, except in accordance with the order and direction of the Court. 48 V. c. 22, s. 53.

PART V.

OTHER DEALINGS WITH REGISTERED LAND.

57.—(1) The registered owner alone shall be entitled to transfer or charge registered land by a registered disposition. Effect of unregistered dispositions. Imp. 38 & 39, V. c. 87, s. 49.

(2) But, subject to the maintenance of the estate and right of such owner, any person, whether the registered owner or not of any registered land, having a sufficient estate or interest in the land, may create estates, rights, interests and equities in the same manner as he might do if the land were not registered.

(3) And any person entitled to or interested in any unregistered estates, rights, interests, or equities in registered land may protect the same from being impaired by any act of the registered owner, by entering on the register such notices, cautions, inhibitions, or other restrictions as are in this Act in that behalf mentioned.

(4) The registered owner alone shall be entitled to transfer a registered charge by a registered disposition; but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject-matter admits, in and with which unregistered estates and interests may be created in registered land. 48 V. c. 22, s. 54.

Notices of Leases.

58.—(1) Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land made subsequently to the last entry of ownership on the register, where the term granted is for a life or lives, or is determinable on a life or lives, or exceeds three years, or where the occupation is not in accordance with such lease or agreement may apply to the Master of Titles to register notice of such lease or agreement in the prescribed manner. Lessee may apply for registration of notice of lease. Imp. 38 & 39, V. c. 87, s. 50.

(2) When so registered every registered owner of the land and every person deriving title through him, excepting owners of incumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an incumbrance on the land in respect of which the notice is entered. 48 V. c. 22, s. 55; 49 V. c. 16, s. 45 (2).

(3) Where notice of such lease or agreement has been registered the Master of Titles shall, on proof, to his satisfaction of the determination of the lease or agreement, notify in the prescribed manner the determination on the register. *New.*

Manner of
registering
notices of
leases.

Imp. 38 & 39
V. c. 87, s. 51.

59.—(1) In order to register notice of a lease or agreement for a lease, if the registered owner of the land does not concur in such registry, the applicant shall apply to the Master of Titles on notice to the registered owner for leave to register the notice of such lease or agreement, and shall deliver to the Master of Titles, the original lease or agreement or a copy thereof; and in case the application is granted the Master shall make a note in the register identifying the lease or agreement or copy so deposited, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given.

(2) If the registered owner concurs in such registry, notice may be entered in such manner as may be agreed upon. 48 V. c. 22, s. 56.

Notice of Estates in Dower or by the Curtesy.

Registration
of notices of
estates in
dower or by
the curtesy.

Imp. 38 & 39
V. c. 87, s. 52.

60. Any person entitled to an estate in dower or by the curtesy in any registered land, may apply in the prescribed manner to the Master of Titles to register notice of such estate; and the Master of Titles, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form; and when so registered, such estate shall be an incumbrance appearing on the register, and shall be dealt with accordingly. 48 V. c. 22, s. 57.

Caution against Registered Dealings.

Caution
against
registered
dealings, how
to be lodged.

Imp. 38 & 39
V. c. 87, s. 53.

61.—(1) Any person interested in any way in any land or charge registered in the name of any other person, may lodge a caution with the Master of Titles to the effect that no dealings with such land or charge be had on the part of the registered owner until notice has been served upon the cautioner.

(2) The caution shall be supported by an affidavit or declaration made by the cautioner or his agent or solicitor in the prescribed form, and containing the prescribed particulars.

(3) Provided, that a person interested under a lease, or agreement for a lease, of which notice has been entered on the register, or a person entitled to an estate in dower, or estate by the curtesy, of which notice has been entered on the register, shall not be entitled to a caution in respect of such lease or estate in dower or by the curtesy. 48 V. c. 22, s. 58.

62.—(1) After any such caution has been lodged, the Master of Titles shall not, without the consent of the cautioner, register any dealing with the land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after expiration of the prescribed number of days next ensuing the date at which the notice is served.

Cautioner entitled to notice of proposed registered dealings.

Imp. 38 & 39 V. c. 87, s. 54.

(2) After the expiration of such time as aforesaid, the caution shall cease unless an order to the contrary is made by the Master.

(3) Upon the caution so ceasing, the land or charge shall be dealt with in the same manner as if no caution had been lodged. 48 V. c. 22, s. 59.

63. If before the expiration of the said period the cautioner, or some other person on his behalf, appears before the Master of Titles, and within such period, or such additional period as the Master may allow, gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the Master of Titles may thereupon, if he thinks fit so to do, delay registering any dealing with the land or charge for such further period as he thinks just, or may instead of taking the security aforesaid register such dealing, subject to the caution, on any condition which he thinks fit to impose, as to security or otherwise. 48 V. c. 22, s. 60.

Registered dealings delayed on security being given.

Imp. 38 & 39 V. c. 87, s. 55.

Inhibition against Registered Dealings without Order of Court.

64.—(1) The Court, or the Master of Titles, upon the application of any person interested, made in the prescribed manner in relation to any registered land or charge, may, after directing such inquiries (if any) to be made and notices to be given, and hearing such persons as the Court or Master of Titles thinks expedient, issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, any dealing with registered land or with a registered charge.

Power of court or master to inhibit registered dealings.

Imp. 38 & 39 V. c. 87, s. 57.

(2) The Court or the Master of Titles may make, or refuse to make, any such order or entry, and impose any terms or conditions the Court or Master of Titles may think fit, and may discharge the order or cancel the entry where granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires. 48 V. c. 22, s. 62 (1, 2).

Power of Registered Owner to impose Restrictions.

65. Where the registered owner of any land is desirous for his own sake, or at the request of some person beneficially interested in such land, to place restrictions on transferring or charging the land, such owner may apply to the Master of

Power to place restrictions on register.

Imp. 38 & 39 V. c. 87, s. 58.

Titles to make an entry in the register that no transfer shall be made of or charge created on the land unless the following things, or such of them as the owner may determine, are done; that is to say—

Unless notice of any application for a transfer or for the creation of a charge is transmitted by registered letter to such address as he may specify to the Master of Titles;

Unless the consent of some person or persons, to be named by the owner, is given to the transfer or the creation of a charge;

Unless some such other matter or thing is done as may be required by the applicant and approved by the Master of Titles. 48 V. c. 22, s. 63.

Master to enter restrictions in register.

Imp. 38 & 39 V. c. 87, s. 59.

66.—(1) The Master of Titles shall thereupon, if satisfied of the right of the applicant to give such directions, make a note of such directions on the register, and no transfer shall be made or charge created except in conformity with such directions.

(2) But it shall not be the duty of the Master of Titles to enter any of the above directions, except upon such terms as to payment of the fees and otherwise as may be prescribed, or to enter any restriction that the Master of Titles may deem unreasonable, or calculated to cause inconvenience.

(3) And any such directions may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the registry to be interested in such directions, and shall also be subject to be set aside by the order of the Court. 48 V. c. 22, s. 64.

PART VI.

PROVISIONS SUPPLEMENTAL TO FOREGOING PARTS OF ACT.

Notice of Registered Instruments.

Notice by registration.

67. No person other than the parties thereto shall be held to have any notice of the contents of any instrument, beyond the particulars contained in the register, or necessarily to be inferred therefrom. 48 V. c. 22, s. 50.

Caution against entry of Land on Register.

Caution against registration of land.

Imp. 38 & 39 V. c. 87, s. 60.

68. A person having or claiming such an interest in any land which is not already registered as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the Master of Titles to the effect that the

cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of such land. 48 V. c. 22 s. 65.

69. The Master of Titles shall not register any *lis pendens* affecting lands under this Act; but any party to an action, or his solicitor, or any person claiming to be interested in the action, may enter a caution. 48 V. c. 22, s. 66.

Lis pendens
not to be
registered.

70. Every caution shall be supported by an affidavit or declaration in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution, and such other matters as may be prescribed. 48 V. c. 22, s. 67.

Caution to be
supported by
affidavit.

Imp. 38 & 39
V. c. 87, s. 61.

71. After a caution has been lodged in respect of any land not already registered, and while the same is in force, registration shall not be made of such land until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and until the prescribed time has elapsed since the date of the service of such notice, or the cautioner has appeared, which may first happen. 48 V. c. 22, s. 68.

Cautioner en-
titled to notice
of proposed
registration of
land.

Imp. 38 & 39
V. c. 87, s. 62.

Caution Wrongfully Lodged.

72. If any person lodges a caution with the Master of Titles without reasonable cause, he shall be liable to make, to any person who may sustain damage by the lodging of such caution, such compensation as may be just; and such compensation shall be deemed to be a debt due to the person who has sustained damage from the person who has lodged the caution. 48 V. c. 22, ss. 61, 69.

Compensation
for improper
lodging of
caution.

Imp. 38 & 39
V. c. 87, s. 63.

73. A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person, and shall have no effect whatever except as in this Act mentioned. 48 V. c. 22, s. 70.

Saving as to
effect of
caution.

Imp. 38 & 39
V. c. 87, s. 64.

Costs.

74. The Master of Titles may order costs, either as between party and party, or as between solicitor and client to be paid by or to any person party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid, regard being had to the following provisions, namely:

Payment of
costs.

Imp. 38 & 39
V. c. 87, s. 73.

That any applicant under this Act is liable *prima facie* to pay all costs, charges, and expenses incurred by or in consequence of his application, except in a case where parties object whose rights are sufficiently secured without their appearance, or where any costs, charges, or expenses are incurred unnecessarily or improperly, and subject to this proviso, that

any party aggrieved by any order of the Master of Titles under this section may appeal in the prescribed manner to the Court, which may, with or without modification, annul or confirm the order of the Master. 48 V. c. 22, s. 75 (1).

Enforcement
of order.

75. If any person disobeys any order of the Master of Titles made in pursuance of the preceding section, the Master may certify such disobedience to the Court, and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the Court, and execution issued to enforce the order, in the same manner in all respects as if the order made by the Master were the order of the Court. 48 V. c. 22, s. 75 (2).

Doubtful Questions arising on Title.

Master may
state case for
opinion of
Court.

Imp. 38 & 39
V. c. 87, s. 74.

76. Whenever upon the examination of the title of any land the Master of Titles entertains a doubt as to any matter of law or fact arising upon the title, he may, upon the application of any person interested in such land, refer a case for the opinion of the High Court, with power for the Court to direct an issue to be tried before a jury or otherwise, for the purpose of determining any fact. The Master may also name the parties to such case, and the manner in which the proceedings in relation thereto are to be brought before the Court. 48 V. c. 22, s. 76.

Opinion of
Court, how far
conclusive.

Imp. 38 & 39
V. c. 87, s. 75.

77. The opinion of any Court to whom any case is referred by the Master of Titles shall be conclusive on all the parties to such case, unless the Court before whom the case is heard permits an appeal to be had. 48 V. c. 22, s. 77.

Intervention
of Court in
case of incapa-
citated per-
sons.

Imp. 38 & 39
V. c. 87, s. 76.

78. Where any infants, idiots, lunatics, persons of unsound mind, persons absent from Canada, or persons yet unborn are interested in the land in respect of the title to which a question arises as aforesaid, any person interested in the land may apply to the Court, for a direction that the opinion of the Court to whom the case is referred under this Act shall be conclusively binding on such infants, idiots, lunatics, persons of unsound mind, persons absent from Canada, or unborn persons. 48 V. c. 22, s. 78; 49 V. c. 16, s. 45 (3).

Power of
Court to bind
interests of
incapacitated
persons.

Imp. 38 & 39
V. c. 87, s. 77.

79. The Court shall hear the allegations of all parties appearing before it. It may disapprove altogether, or may approve, either with or without modification, of the directions of the Master of Titles in respect to any case referred as to the title of land. The Court may also, if necessary, appoint a guardian or other person to appear on behalf of any infants, idiots, lunatics, persons of unsound mind, persons absent from Canada, or unborn persons; and if the Court is satisfied that the interests of the persons labouring under disability, absent, or unborn, will be sufficiently represented in any case, it shall make an order declaring that all persons,

with the exceptions (if any) named in the order, are to be conclusively bound; and thereupon all persons, with such exceptions (if any) as aforesaid, shall be conclusively bound by any decision of the Court having cognizance of the case in which such persons are concerned. 48 V. c. 22, s. 79.

As to Land Certificates, Office Copies of Leases, and Certificates of Charge.

80. If any land certificate, or office copy of a registered lease, or certificate of charge is lost, mislaid, or destroyed, the Master of Titles may, upon being satisfied of the fact of such loss, mislaying, or destruction, grant a new land certificate, or office copy, or certificate of charge, in the place of the former one. 48 V. c. 22, s. 80.

Loss of land certificate, or certificate of charge, or office copy of lease.

Imp. 38 & 39
V. c. 87, s. 78.

81. The Master of Titles may, upon the delivery up to him of a land certificate or of an office copy of a registered lease or of a certificate of charge, grant a new land certificate or office copy of a lease or certificate of charge in the place of the one delivered up. 48 V. c. 22, s. 81.

Renewal of land certificate, or certificate of charge, or office copy of lease.

Imp. 38 & 39
V. c. 87, s. 79.

82. A land certificate or certificate of charge shall be *prima facie* evidence of the several matters therein contained, and the office copy of a registered lease shall be evidence of the contents of the registered lease. 48 V. c. 22, s. 82.

Land certificate, certificate of charge, and office copy of lease to be evidence.

Imp. 38 & 39
V. c. 87, s. 80.

83. Subject to any registered estates, charges, or rights, the deposit of the land certificate in the case of freehold land, and of the office copy of the registered lease in the case of leasehold land, shall, for the purpose of creating a lien on the land to which such certificate or lease relates, be deemed equivalent to a deposit of the title deeds of the land. 48 V. c. 22, s. 83.

Effect of deposit of land certificate, or of office copy of lease.

Imp. 38 & 39
V. c. 87, s. 81.

Special Hereditaments.

84. The Master of Titles may register the owner of any incorporeal hereditament of freehold tenure, enjoyed in gross, also the owner of any mines or minerals where the ownership of the same has been severed from the ownership of the land, in the same manner and with the same incidents in and with which he is by this Act empowered to register land, or as near thereto as circumstances admit. 48 V. c. 22, s. 84.

Registry of special hereditaments.

Imp. 38 & 39
V. c. 87, s. 82.

General Provisions.

85. The following enactments shall be made with respect to registration of title:—

Enactments as to registration.

1. There shall not be entered on the register or be receivable by the Master of Titles, any notice of any trust, express, implied, or constructive. Describing the owner of any

Imp. 38 & 39
V. c. 87, s. 83.

freehold or leasehold land or of any charge as a trustee, whether the beneficiary or object of the trust is mentioned or not, shall not be deemed a notice of a trust within the meaning of this provision, nor shall such description impose upon any person dealing with such owner, the duty of making any enquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise ; but (subject to the registration of any caution or inhibition) such owner may deal with the land or charge as if such description had not been inserted ;

2. No person shall be registered as owner of any undivided share in any land or charge ; and a number of persons exceeding the prescribed number shall not be registered as owners of the same land or charge ; and if the number of persons shewing title exceeds the prescribed number, such of them not exceeding the prescribed number as may be agreed upon, or at the Master of Titles in case of difference decides, shall be registered as owners ;

3. Upon the occasion of the registry of two or more persons as owners of the same land or of the same charge, an entry may, with their consent, be made on the register, to the effect that when the number of such owners is reduced below a certain specified number, no registered disposition of such land or charge shall be made, except under the order of the Court ;

4. In such a case the words "no survivorship" in the entry shall be construed to mean that in case any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the Court ;

5. Registered land shall be described in such manner as the Master of Titles thinks best calculated to secure accuracy, but such description shall not be conclusive as to the boundaries or extent of the registered land ;

6. No alteration shall be made in the registered description of land, except under the order of the Court, or under section 100 of this Act, or by way of explanation or under Rules of Court ; but this provision shall not be construed to extend to registered dealings with registered land in separate parcels, although such land was originally registered as one parcel. 45 V. c. 22, s. 85.

Annexation of
conditions to
registered
land.

Imp. 38 & 39
V. c. 87, s. 84.

86. Where any land is about to be registered, or any registered land is about to be transferred to a purchaser for valuable consideration, there may be registered as annexed thereto, subject to general rules and in the prescribed manner, a condition or covenant that such land or any specified portion thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land ;

The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant ;

Nevertheless, any such condition or covenant may be modified or discharged by order of the Court, on proof to the satisfaction of the Court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant. 48 V. c. 22, s. 86.

87. All the provisions of *The Act respecting Trustees and Executors and the Administration of Estates*, and of any Act amending the same, which are not inconsistent with the provisions of this Act shall apply to land and charges registered under this Act, but this enactment shall not prejudice the applicability to such land and charges of any provisions of such Acts relating to land or choses in action. 48 V. c. 22, s. 87.

Registered land to be within Rev. Stat. c. 110.
Imp. 38 & 39 V. c. 87, s. 86.

88. The Master of Titles shall not, nor shall any person acting under his authority, or under any order or general rule made in pursuance of this Act, be liable to any action, suit, or proceeding for or in respect of any act or matter *bonu fide* done or omitted to be done in the exercise or supposed exercise of the powers of this Act, or of any order or general rule made in pursuance of this Act. 48 V. c. 22, s. 88.

Indemnity of Master of Titles.
Imp. 38 & 39 V. c. 87, s. 86.

Married Women.

89. A married woman shall for the purposes of this Act, be deemed a *feme sole*, and may execute without seal any bar of dower or other instrument required under this Act. 50 V. c. 15, s. 14.

Execution of instruments by married women.

Persons Under Disability.

90.—(1) In case any person who, if not under disability might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is a minor, an idiot, or a lunatic, the guardian of the minor, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act.

Where any party is a minor, lunatic, etc.
Imp. 38 & 39 V. c. 87, s. 88.

(2) If the minor has no guardian, or the idiot or lunatic no committee of his estate, or if persons yet unborn are interested, the official guardian *ad litem* shall act with like power, or the Master of Titles may appoint a person with like power to act for the minor, idiot, lunatic, or person yet unborn. 48 V. c. 22, s. 89 (1, 2).

As to Notices.

Address of
persons on
register.

Imp. 38 & 39
V. c. 87, s. 89.

91.—(1) Every person whose name is entered on the register as owner of land or of a charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish to the Master of Titles a place of address in this Province, and may from time to time substitute some other address in the Province for that originally furnished. 48 V. c. 22, s. 90.

(2) In case any such person fails to furnish a place of address for service as aforesaid, a notice sent through the post addressed to such person at the place named in the registered instrument under which he claims, as his place of residence, shall be sufficient, unless the Master of Titles otherwise directs. (*New.*)

Service of
notices.

Imp. 38 & 39
V. c. 87, s. 90.

92. Every notice by this Act required to be given to any person shall be served personally, or sent through the post in a registered letter marked outside "Office of Land Titles," and directed to such person at the address (or last address, as the case may be) furnished to the Master of Titles, and unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of posting, as may be prescribed: 48 V. c. 22, s. 91.

Return of
notices by
post-office.

Imp. 38 & 39
V. c. 87, s. 91.

93. The envelope containing any notice under this Act shall have printed thereon a request in the prescribed manner to the Postmaster or Postmaster-General for the return thereof to the office of Land Titles, in case the person to whom the notice is addressed cannot be found; and on the return of any letter containing any notice, the Master of Titles shall act in the matter requiring the notice to be given in manner prescribed. 48 V. c. 22, s. 92.

Purchasers
not affected
by omission to
send notices.

Imp. 38 & 39
V. c. 87, s. 92.

94. A purchaser for valuable consideration shall not be affected by the omission to send any notice by this Act directed to be given, or by the non-receipt thereof. 48 V. c. 22, s. 93.

Specific Performance.

Power of
court in action
for specific
performance.

Imp. 38 & 39
V. c. 87, s. 93.

95. Where an action is instituted for the specific performance of a contract relating to registered land, or a registered charge, the Court having cognizance of the action may by summons, or by such other mode as it deems expedient, cause all or any parties who have registered estates or rights in the land or charge, or have entered up notices, cautions or inhibitions against the same, to appear in the action, and shew cause why the contract should not be specifically performed; and the Court may direct that any order made by the Court in the action shall be binding on such parties or any of them. 48 V. c. 22, s. 94.

96. All costs incurred by any parties so appearing in an action to enforce against a vendor specific performance of his contract to sell registered land or a registered charge, shall be taxed as between solicitor and client, and, unless the Court otherwise orders, be paid by the vendor. 48 V. c. 22, s. 95.

Costs in action for specific performance.
Imp. 38 & 39
V. c. 87, s. 94.

Rectification of the Register.

97. Subject to any estates or rights acquired by registration in pursuance of this Act, where any Court of competent jurisdiction has decided that any person is entitled to any estate, right, or interest in or to any registered land or charge, and as a consequence of such decision the Court is of opinion that a rectification of the register is required, the Court may make an order directing the register to be rectified in such manner as it thinks just. 48 V. c. 22, s. 96.

Establishment of adverse title to land.
Imp. 38 & 39
V. c. 87, s. 95.

98. Subject to any estates or rights acquired by registration in pursuance of this Act, if any person is aggrieved by any entry made, or by the omission of any entry from the register under this Act, or if default is made or unnecessary delay takes place in making any entry in the register, any person aggrieved by such entry, omission, default, or delay, may apply to the Court in the prescribed manner for an order that the register may be rectified; and the Court may either refuse the application with or without costs, to be paid by the applicant, or may if satisfied of the justice of the case, make an order for the rectification of the register. 48 V. c. 22, s. 97.

Register to be rectified under order of court.
Imp. 38 & 39
V. c. 87, s. 96.

99. The Master of Titles shall obey the order of any competent Court in relation to any registered land, on being served with the order or an official copy thereof. 48 V. c. 22, s. 98.

Master to obey orders of court.
Imp. 38 & 39
V. c. 87, s. 97.

100.—(1) The Master may *sua sponte* and without affidavit enter a caution to prevent the dealing with any registered land in any case in which it appears to him that an error has been made in any entry by mis-description of such land, or otherwise.

Entry of caution by Master in case of error.

(2) Subject to rules under this Act the Master may, before the receipt of any conflicting instrument, or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and supply omissions in certificates of title, or in the register, or in any entry therein, and may call in the outstanding certificate of title for that purpose. (*New.*)

Correction of errors.

As to Fraud.

101. Subject to the provisions in this Act contained with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land which if unregistered would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner. 48 V. c. 22, s. 99.

Fraudulent dispositions.
Imp. 38 & 39
V. c. 87, s. 98.

Suppression
of deeds and
evidence.

Imp. 38 & 39
V. c. 87, s. 99.

102. If in the course of any proceeding under this Act, any person acting either as principal or agent, shall, knowingly and with intent to deceive, make or assist, or join in or be privy to the making of any material false statement or representation, or suppress, conceal, or assist or join in or be privy to the suppression, withholding or concealing any material document, fact or matter of information, every person so acting shall be deemed to be guilty of an offence under this Act, and on conviction shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour, or to be fined such sum as the Court by which he is convicted shall award. Any certificate of title obtained by means of such fraud or falsehood, shall be null and void for or against all persons other than a purchaser for valuable consideration without notice. 48 V. c. 22, s. 100.

Certain
fraudulent
acts declared
to be offences.
Imp. 38 & 39
V. c. 87, s. 100.

103. If any person fraudulently procures, attempts to fraudulently procure, or is privy to the fraudulent procurement of any entry on the register, or of any erasure from the register or alteration of the register, such person shall be guilty of an offence under this Act, and upon conviction be liable to imprisonment for any term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding \$500 as the Court before which he is tried may award; and any entry, erasure, or alteration so made by fraud, shall be void as between all parties or privies to the fraud. 48 V. c. 22, s. 101.

False declara-
tions.
Imp. 38 & 39
V. c. 87, s. 101.

104. If any person in any affidavit or affirmation required or authorized to be made for any purpose under this Act, or by any order or general rules made in pursuance thereof, wilfully makes a false statement in any material particular, he shall be guilty of an offence under this Act, and upon conviction shall be liable to be imprisoned with or without hard labour, for a term not exceeding two years, or to be fined such sum not exceeding \$500, as the Court before which he is tried may award. 48 V. c. 22, s. 102.

Saving of civil
remedy.
Imp. 38 & 39
V. c. 87, s. 102.

105. No proceeding or conviction for any offence under this Act shall affect any remedy which any person aggrieved may be entitled to. 48 V. c. 22, s. 103.

Saving of
obligation to
make dis-
covery.
Imp. 38 & 39
V. c. 87, s. 103.

106. Nothing in this Act contained shall entitle any person to refuse to answer any question or interrogatory in any civil proceeding; but no answer to any such question, or interrogatory shall be admissible in evidence against such person in any criminal proceeding in respect of which this Province has legislative authority. 48 V. c. 22, s. 104.

ASSURANCE FUND.

Assurance
fund.

107.—(1) An Assurance Fund shall be formed for the indemnity of any persons who may happen to be deprived of land or

some estate or interest therein by reason of the land being brought under the provisions of this Act, or by the registration of some other person as owner of the land or of such estate or interest therein, or by reason of any misdescription, omission or other error in a certificate of title or in any entry in the register.

(2) In order to constitute such fund, there shall be paid on the first certificate of title granted under this Act in respect of any land, in addition to all other fees, a sum equal to one-fourth of one per cent. of the value of the land.

(3) (Subject to any rules to be made under the authority of this Act), money payable under the preceding subsection shall be paid into Court, with the privity of the Accountant of the Supreme Court, and shall be placed to the credit of an account to be intituled "Assurance Fund under the Land Titles Act," and shall be invested from time to time under the direction of the Court, and the interest or income derived therefrom shall be credited to the same account. 48 V. c. 22, s. 105 (1-3).

(4) Where the amount to be paid into the assurance fund is not more than \$10, no fee shall be payable for a direction to the bank to receive the same, and where such amount is payable in respect of a proceeding before a Local Master of Titles, the person desiring to pay the same may, at his own risk, transmit the amount by a money order, payable to "The Accountant of the Supreme Court at Toronto," in a registered letter addressed to the said Accountant, together with a requisition in the prescribed form. 50 V. c. 15, s. 17.

(5) (Subject as aforesaid) the value of the land shall be ascertained for the purpose aforesaid by the oath or affirmation of the applicant, unless the Master of Titles dispenses therewith.

(6) (Subject as aforesaid) in case the oath or affirmation of the applicant is dispensed with, or in case the Master of Titles is not satisfied as to the correctness of the value stated by the oath or affirmation of the applicant or any other person, he may require the affidavit or certificate in that behalf of a sworn valuator: and such affidavit or certificate shall be conclusive. 48 V. c. 22, s. 105 (4, 5).

(7) If the Master thinks fit to take from any applicant for a certificate of ownership security to indemnify the Assurance Fund against loss, he may do so, by taking a bond or covenant to Her Majesty, either with or without sureties or other security as he considers expedient. *New.*

108.—(1) Any person wrongfully deprived of land, or of some estate or interest therein, by reason of the land being brought under this Act, or by reason of some other person being registered as owner, or by reason of any misdescription or other

Remedy of
person wrong-
fully deprived
of land.

error in any certificate of title, or in any entry in the register, shall be entitled to recover what is just, by way of compensation or damages, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error.

(2) But this is not to be construed to render liable any purchaser or mortgagee *bona fide* for valuable consideration by reason of the vendor or mortgagor having been registered as owner through fraud or error, or having derived from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise howsoever.

(3) In case the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he shall be entitled to have the same paid out of the Assurance Fund, so far as the fund may be sufficient for that purpose having reference to other charges thereon, provided that the application is made within six years from the time of having been so deprived; or, in the case of a person under the disability of infancy, lunacy or unsound mind, within six years from the date at which the disability ceased.

(4) The liability of the fund for compensation and the amount of compensation shall (subject to appeal as in other cases) be determined by the Master of Titles, unless the Court or Master of Titles on application directs some other way of ascertaining and determining the same. The costs of the proceedings shall be in the discretion of the Master of Titles or the Court, as the case may be.

(5) Where any sum has been paid out of the Assurance Fund on account of a person on whose application the erroneous registration was made, or who acquired the title through the fraud or error, the same may afterwards for the benefit of the fund be recovered from such person or his estate, by action in the name of the Master of Titles; and the Master's certificate of the payment out of the Assurance Fund shall be sufficient proof of the debt. 48 V. c. 22, s. 106.

WITHDRAWING LAND FROM THE REGISTRY.

Application to
withdraw
registered
land.

109.—(1) Where after land has been registered under this Act, special circumstances appear, or subsequently arise, which make it inexpedient that the land should continue under the Act, the owner may apply in the prescribed manner to the Master of Titles for the withdrawal of the land from the said Act.

Certificate by
Master.

(2) In case the owner proves before the Master of Titles that all persons interested in the land proposed to be withdrawn, consent to its withdrawal, and in case he satisfies the Master that special circumstances exist which render the

withdrawal of such land or a portion thereof expedient, the Master may issue his certificate describing the land or such portion thereof as the consent covers and as the Master deems proper, in such a manner that the said certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued the said Act shall cease to apply to the land described therein, and the land shall thereafter be subject to the ordinary laws relating to real estate and to the registry laws.

(3) This section shall also apply to the Local Masters of Titles; the certificate in such case shall require to be approved and countersigned by the Inspector. Application of section.

(4) Upon the production of the certificate to the registrar of lands and payment of a fee of \$1, the same shall be duly registered. Registration of certificate. 50 V. c. 15, s. 9.

ADMINISTRATION OF LAW AND MISCELLANEOUS.

Office of Land Registry.

110. There shall be a seal for the office of Land Titles. Seal of office.
Imp. 38 & 39
V. c. 87, s. 107. 48 V. c. 22, s. 107.

111. The Master of Titles shall conduct the business of registering land under this Act; and he shall frame and cause to be printed and promulgated, such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act. Master to frame and promulgate forms.
Imp. 38 & 39
V. c. 87, s. 108. 48 V. c. 22, s. 108.

112. The Master of Titles, or any officer of the office of Land Titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath or affirmation for any of the purposes of this Act. Administration of oaths.
Rev. Stat. c. 114. 48 V. c. 22, s. 109 (1).

113—(1) The Master of Titles may, by summons under the seal of the office, require the attendance of all such persons as he may think fit in relation to the registration of any title and may in the summons require any person to produce for inspection any documents, deeds, instruments or evidences of title to the production of which the applicant or any trustee for him is entitled. Power of Master to summon witnesses.
Imp. 38 & 39
V. c. 87, s. 109.

(2) He may also, by a like summons, require any person having the custody of any map, survey, or book made or kept in pursuance of any Act of Parliament to produce such map, survey, or book for his inspection.

(3) He may examine upon oath any person appearing before him and administer an oath accordingly; and he may allow to every person summoned by him the reasonable charges of his attendance.

(4) Any charges allowed by the Master of Titles in pursuance of this section shall be deemed to be charges incurred in or about proceedings for registration of land, and may be dealt with accordingly.

(5) If any person disobeys any order of the Master of Titles made in pursuance of this section, the Master may certify such disobedience to the Court; and thereupon such person, subject to appeal, may be punished by the Court in the same manner in all respects as if the order made by the Master of Titles were the order of the Court. 48 V. c. 22, ss. 73, 109.

Non-attendance or refusal to answer questions.
Imp. 38 & 39
V. c. 87, s. 110.

114.—(1) If any person, after the delivery to him of the summons as aforesaid, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons, or to produce such maps, deeds, instruments, evidences of title, surveys, books, or other documents as he may be required to produce under this Act, or to answer upon oath or otherwise such questions as may be lawfully put to him by the Master of Titles under the powers of this Act, he shall incur a penalty not exceeding \$50, to be recovered on summary conviction.

(2) But no person shall be required to attend in obedience to any summons, or to produce such documents as aforesaid, unless the reasonable charges of his attendance and of the production of the documents be paid or tendered to him. 48 V. c. 22, s. 110.

Certificates as to taxes.

115. The treasurer of the proper municipality shall furnish to any person requiring the same in respect of lands registered or with reference to which an application for registration is pending, a certificate of payment of taxes, charges, rates and assessments, in the prescribed form, or as nearly corresponding thereto as the information given by his books of office will allow, and the certificate shall be binding upon the municipality. (*New.*)

Appointment of deputies.

116. In case the Lieutenant-Governor sees occasion in consequence of the illness or absence of the Master of Titles, or for any other cause, he may appoint a person to act as the Deputy *pro tem.* of the Master and such Deputy, while so acting, shall have all the powers of the Master. 48 V. c. 22, s. 111.

Oath of office.

117. The Master of Titles, before he enters upon the execution of his office, shall take, before some Judge of the Supreme Court of this Province, the oath of office in the form following:—

I, A. B., do solemnly swear (or affirm) that I will faithfully, and to the best of my ability, perform the office and duties of Master of Titles.

48 V. c. 22, s. 112.

118. Before any Master of Titles is sworn into office, he, and two or more sufficient sureties, shall enter into a joint and several bond in writing under their hands and seals to Her Majesty, in a penal sum to be determined by the Lieutenant-Governor in Council, which bond shall be subject in all respects to the approval of the Lieutenant-Governor in Council, and shall be conditioned for the true and faithful performance by the Master of his duty in respect to all things directed to be done by or required of him by this Act or any law in that behalf. 48 V. c. 22, s. 113. Bond of Master.

119. The sureties in the bond shall justify under oath, and the execution by the Master of Titles and his sureties shall be verified under oath by a subscribing witness; and the bond with the affidavits of justification appended, shall be forthwith transmitted to the Provincial Secretary, and shall be filed in his office after being approved by the Lieutenant-Governor in Council. 48 V. c. 22, s. 114. Sureties to justify.
Custody of bonds.

120. The Master of Titles shall, whenever required by the Provincial Secretary, execute a new bond in the form and to the effect provided in the next preceding two sections, or furnish such other security as may be deemed expedient. 48 V. c. 22, s. 115. New bonds when required.

121. No Master of Titles, officer, or clerk appointed under this Act, shall, directly or indirectly, act as the agent of any corporation, society, company, person or persons investing money and taking securities on real estate; nor shall such Master of Titles, officer or clerk advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer; nor shall he carry on or transact within the office any business or occupation whatever other than his duties as such Master of Titles, officer or clerk, or as holder of some other office under the Provincial Government. 48 V. c. 22, s. 116. Master, etc., not to act as agent, etc.

Right to Inspect Registry.

122. Subject to such regulations and exceptions and to the payment of such sums as may be fixed by general rules, any person registered as owner of any land or charge, and any person authorized by any such owner, or by an order of the Court, or by general rule, may inspect and make copies of and extracts from any document in the custody of the Master of Titles relating to such land or charge. No other person save as aforesaid shall be entitled to do so. 48 V. c. 22, s. 118. Right to inspect documents.
Imp. 38 & 39
V. c. 87, s. 104.

Rules.

123. The rules and regulations in the schedule to this Act shall regulate the proceedings as to all matters to which such rules and regulations may extend. But such rules and Rules and regulations.

regulations may be annulled or altered by any authority by which new rules and regulations may be made under this Act. 48 V. c. 22. s. 119.

Power to make
general rules.
Rev. Stat. c.
44, ss. 105, 108,
Imp. 38 & 39,
V. c. 87, s. 119.

124. Subject to the provisions of this Act, the Lieutenant-Governor in Council, or the Judges of the Supreme Court under sections 105 and 108 of *The Judicature Act*, (which are to be read as applying to this Act,) may, with the advice and assistance of the Master of Titles, from time to time make, and after making may rescind, annul, or add to, general rules in respect of all or any of the following matters; that is to say—

1. The mode in which the register is to be made and kept;
2. The forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all the proceedings before the Master of Titles or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;
3. The custody of any instruments, from time to time coming into the hands of the Master of Titles, with power to direct the destruction of any such instruments where they have become altogether superseded by entries in the register or have ceased to have any effect;
4. The duties which are to be performed by the Master of Titles and other officers employed; and what acts of the Master of Titles may be done by other officers;
5. The costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying this Act into execution, with power to require such costs to be payable by commission, percentage, or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as may be thought expedient;
6. The taxation of such costs and the persons by whom such costs are to be paid;
7. Any matter by this Act directed or authorized to be prescribed;
8. Any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution. 48 V. c. 22, s. 120.

Effect of rules.
Imp. 38 & 39,
V. c. 87, s. 121.

125. Any rules made in pursuance of the preceding section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed. 48 V. c. 22, s. 121.

126. The Lieutenant-Governor in Council or the Judges aforesaid may from time to time make, and after making revoke, alter or add to rules with respect to the amount of fees payable under this Act, and may have regard to the following matters :

Rules respecting fees.
Imp. 38 & 39
V. c. 87, s. 112.

1. In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land, as determined by the amount of purchase money ;

2. In the case of the registration of land, or of any transfer of land on the occasion of a sale,—to the value of the land, to be ascertained in such manner as may be prescribed ;

3. In the case of registration of a charge or of any transfer of a charge,—to the amount of such charge. 48 V. c. 22, s. 122 ; 50 V. c. 15, s. 15.

127. (1) Subject to rules, the fees payable in respect of such business in the office of the Master of Titles as is analogous to the business under *The Registry Act*, shall be the same as the fees payable to the registrar under the said Act ; and all other fees and costs, whether in respect of business done by the Master of Titles or by other officers, or by solicitors under this Act, shall be the same as nearly as may be as are payable in case of like proceedings in the High Court. 48 V. c. 22, s. 123 (1).

Fees.

Reg. s. 114.

(2) The stamps for, all fees payable on a land certificate or a certificate of charge shall be affixed to the registered transfer or charge and not to the certificate, and all stamps payable in respect of registrations shall be affixed to the instruments registered and not to the entry in the register. 50 V. c. 15, s. 16.

Stamps to be affixed to registered transfer or charge.

128. The Judges of the High Court may from time to time assign the duties vested in the Court in relation to matters under this Act to any particular Judge or Judges of that Court. 48 V. c. 22, s. 124.

Assignment of duties to particular judges.
Imp. 38 & 39
V. c. 87, s. 115.

129. An appeal shall lie from any act, order, or decision of the Master of Titles under this Act to the High Court, and from that Court to the Court of Appeal, as in cases within the ordinary jurisdiction of the Court. 48 V. c. 22, ss. 61, 62, 126.

Appeals from Master.

130. Any person aggrieved by an order made under this Act by the High Court may appeal within the prescribed time, in the same manner and with the same incidents in and with which orders made by the High Court on cases within the ordinary jurisdiction of such Court may be appealed from. 48 V. c. 22, s. 125.

Appeal from High Court.
Imp. 38 & 39
V. c. 87, s. 117.

Process of law
not void for
want of form.

131. No application, order, affidavit, certificate, registration or other proceeding shall be invalid by reason of any mistake not affecting the substantial justice of the proceeding. 48 V. c. 22, s. 127

EXTENSION OF ACT TO OTHER LOCALITIES AND EXPENSES.

Adoption of
Act by muni-
cipality.

132.—(1) The municipal council of a county, or of a city or town separated from the county for municipal purposes, may pass a by-law declaring it expedient that the provisions of this Act be extended to the said county, city or town.

(2) The municipal corporations of the county of York and city of Toronto and of any county, city or town which passes a by-law to the effect aforesaid, shall provide proper fire-proof and other accommodation for an office of Land Titles: and, so far as the expenses of the office are not covered by the fees collected thereat, the corporation shall pay the same, including the salary of the Master of Titles of the locality, and all necessary and proper books, stationery, furniture, and lighting, cleaning and heating of the office, and attendance and other matters and things incident to the proper conduct of the business of the office.

Rev. Stat. c.
184.

(3) Where this Act is extended to a county which includes a city or town separated from the county for municipal purposes, the city or town and county shall share the expenses to be borne by the locality under this Act, in such proportions as may be decided by arbitration under *The Municipal Act*, in case the councils interested do not agree in respect thereto. 48 V. c. 22, s. 117 (2): 50 V. c. 15, s. 1.

Proclamation
extending Act
to municipi-
pality.

133.—(1) Where a by-law to the effect aforesaid has been passed, and proper accommodation has been provided, either in connection with the county registry office or at some other convenient place, to the satisfaction of the Inspector hereinafter mentioned, and approved by the Lieutenant-Governor in Council, the Lieutenant-Governor may, by his proclamation, extend the operation of this Act, as amended by any subsequent Acts, to such county, city or town, from a day to be named in the proclamation.

(2) The fact of the conditions precedent to the issue of such proclamation having been performed, shall be conclusively established by the issue of the proclamation. 50 V. c. 15, s. 2.

Surplus fees
under Rev.
Stat. c. 114,
s. 107, to be
applied in
defraying
expenses of
office.

134. Where this Act applies to a county, city or town entitled to receive money under section 107 of *The Registry Act*, the registrar shall pay to the Treasurer of Ontario, to be applied, so far as necessary, in defraying the salary of the Master and other expenses of the office, the money payable either directly or indirectly, to the county, city or town under the said Act, and the Treasurer shall pay the balance to the

county, city or town; and in case the amount so paid to the Treasurer aforesaid by the registrar is not sufficient, or in case nothing is payable by the registrar, the residue of such salary, or the whole of such salary (as the case may be), shall be made good to the Province by the corporation of the county, city or town. 50 V. c. 15, s. 3.

LOCAL MASTERS OF TITLES.

135. Where at the time of the issue of the proclamation there is a Referee of Titles under *The Quieting Titles' Act*, residing in the locality, such referee shall *ex-officio* be the first Local Master of Titles therefor, unless he practises as a barrister or solicitor, or is a County Judge, and he shall hold the office during the pleasure of the Lieutenant-Governor in Council. 50 V. c. 15, s. 4 (1). Local Masters of Titles *ex-officio*.
Rev. Stat. c. 113.

136.—(1) Save as aforesaid, the Lieutenant-Governor may appoint a Master of Titles for any locality in which the Act is in force, to be styled "The Local Master of Titles" for the county, city, town or district, as the case may be, such officer to hold office during pleasure as aforesaid. Appointment of Local Masters.

(2) The person appointed may, in the discretion of the Lieutenant-Governor, be a County Judge, a barrister or solicitor (whether practising or not), or a registrar, if the person is deemed by the Lieutenant-Governor in Council to be qualified for the office of Master of Titles. Qualification.

(3) The Local Master of Titles shall be paid by salary for his services in that capacity, such salary to be fixed from time to time, with reference to the amount or probable amount of the business, on the report of the Inspector, subject to approval by the Lieutenant-Governor in Council. The Order in Council is to be laid before the House of Assembly, as provided for Orders in Council under section 157 of *The Judicature Act*. Salary.
Rev. Stat. c. 44, s. 157.

(4) Every Local Master of Titles, before he enters upon the execution of his office, shall give security for the true and faithful performance of his duty as such Master, in such an amount as may be determined by the Lieutenant-Governor in Council, and in such form as he may approve of, and shall take, before a Judge of the Supreme Court of this Province, or before some person authorized by the Lieutenant-Governor to administer oaths and declarations, an oath of office similar to that required to be taken by the Master of Titles, and such oath shall be transmitted to the Provincial Secretary Security.

(5) The Local Master of Titles shall, whenever required by the Provincial Secretary, give new security for the purposes specified in this section, to be approved by the Lieutenant-Governor in Council. 50 V. c. 15, s. 4 (2-6). New security to be given when required.

Master's
authority and
duties.

137. Subject to the provisions of this Act, every Local Master of Titles shall, in respect to titles of land situate within the territory for which he is appointed, have all the authority and perform all the duties which, in the county of York, are performed by the Master of Titles (including authority to grant applications for the withdrawal of land from under this Act), subject to appeal in the same manner. 50 V. c. 15, ss. 5, 9.

INSPECTOR OF OFFICES OF LAND TITLES.

Appointment
of Inspector.

138.—(1) As soon as this Act applies to ten counties, cities or towns aforesaid, the Lieutenant-Governor may appoint an officer, to be called "The Inspector of Land Titles' Offices."

Duties.

Rev. Stat. cc.
113, 114.

(2) The Inspector shall (subject to rules as hereinafter mentioned) have the like powers and duties as an Inspector under *The Quieting Titles' Act*, and as an Inspector under *The Registry Act*, respectively, and such other duties as may be required of him by rules to be made under the authority of this Act, or as he may be required by the Governor in Council to perform in respect of matters arising under the said Act.

Salary.

(3) The salary of the Inspector, to be voted by the Legislature, and his travelling expenses, and all expenses of and incidental to his office, shall be paid by the Province, and shall be repaid to the Provincial Treasurer by the corporations of the localities in which this Act is from time to time in operation, and shall be paid in such proportions as after a report from the Inspector the Lieutenant-Governor in Council may determine.

Performance
of duties until
Inspector
appointed.

(4) Until an Inspector is appointed, the duties of the Inspector shall be performed by the Master of Titles, or by some other person authorized by the Lieutenant-Governor in Council, and the expenses of and incidental thereto shall, in like manner as is hereinbefore provided be repaid to the Provincial Treasurer.

Appeal from
Inspector.

(5) In all matters decided by the Inspector which are of like character as matters over which the Master of Titles has jurisdiction in the county of York, an appeal shall lie from any act, order or decision of the Inspector to the High Court, and from that Court to the Court of Appeal, as in cases within the ordinary jurisdiction of the Court; subject to any rules made in respect of such appeals. 50 V. c. 15, s. 6.

DUTIES AND POWERS OF LOCAL MASTERS.

First Registration.

Local Master
to transmit
title deeds,
etc., to Inspec-
tor.

139.—(1) Where, upon an application for first registration, the Local Master of Titles finds that the applicant, or his nominee, is entitled to be registered, he is to sign a memorandum to that effect at the foot of the application, and is to trans-

mit the same to the Inspector of Titles, with the deeds, evidence, and other papers before him, and a draft of the entry of ownership proposed to be made.

(2) If the Inspector concurs in the opinion of the Local Master of Titles, he shall approve thereof and shall return the papers transmitted to him, and the Local Master of Titles may thereupon register the applicant, or his said nominee as owner under this Act. Proceedings where Inspector concurs in Master's finding.

(3) In case the Inspector does not concur in the opinion of the Local Master of Titles, he shall communicate his opinion to the Local Master of Titles, and shall cause such action to be taken as he deems expedient, and in case his objections are not removed by explanations or additional evidence, the applicant or his nominee shall not be registered, unless the Court on appeal, or on a case stated for its opinion, otherwise directs. Proceedings where Inspector does not concur.

(4) If there is a contest upon the decision of the Inspector concurring in the Local Master's opinion, registration shall be delayed for ten days to enable anyone who so desires to appeal. Stay of proceedings in case appeal desired.
50 V. c. 15, s. 7.

(5) A certificate of a Local Master for the withdrawal of land from under this Act shall not be valid unless approved and countersigned by the Inspector. Certificate to be countersigned by Inspector.
50 V. c. 15, s. 9 (3).

Subsequent Registration.

140. If on the application for the registration of an instrument after a first registration or of a transmission, the Local Master of Titles is unable to come to a clear conclusion as to the action which he should take, he shall delay making the required entry until he has stated the facts to the Inspector of Titles for his opinion. In submitting the case the Local Master shall state his own view and his reasons therefor. Submission of case to Inspector where Master in doubt.
50 V. c. 15, s. 8.

REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS.

141.—(1) When letters patent for any land situated in Algoma, Thunder Bay (including Rainy River), Muskoka, Parry Sound, or Nipissing are issued, the same shall be forwarded to the Local Master of Titles of the district, for the purpose of the patentee being entered as the first registered owner of the land, with any necessary qualification. Letters Patent granting land to be sent to Local Master.

(2) Before making such entry the Local Master shall obtain from the registrar of the registry division a certificate stating what instruments, if any, have been registered affecting the land; and in case he finds that any such instrument has been registered, he shall give notice to the patentee and to all other persons interested, before registering the patentee as owner.

(3) In case there is no contest as to the rights of the parties the Local Master may make the requisite entry and issue his certificate; but in case of a contest, he shall transmit the papers to the Inspector of Titles before registering the patentee as owner, and shall otherwise proceed as provided in section 139 of this Act. 50 V. c. 16, s. 2.

Payment to
Assurance
Fund.

142.—(1) Before a certificate of ownership is issued, the patentee shall pay into the Assurance Fund, one quarter of one per cent. on the value of the land patented, unless he elects to have the amount made a charge on the land; and his failure to pay the amount prior to the issue of the certificate shall be deemed an election.

(2) In that case a note shall be made on the register and on the certificate that the land is liable to pay the assurance fee; and no subsequent transfer or charge of the land, or any transmission thereof, shall be registered until the same, namely, one quarter of one per cent. on the value of the land at the time of the entry of the transfer, charge or transmission has been paid into the Assurance Fund. 50 V. c. 16, s. 3.

Notice by
Master to
sheriff and
treasurer.

143.—(1) Upon an entry of ownership being made as aforesaid the Local Master of Titles shall, in the prescribed form, notify the sheriff in whose bailiwick the lands lie, of the entry of the patentee as owner, and shall, in the prescribed form, notify the treasurer of the municipality, if the land is situated in a municipality, of the fact that the land has become subject to this Act.

(2) The notices shall be sent by registered letter-post, and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution or arrear of taxes.

(3) If within the fourteen days no copy of a writ of execution against the lands of the patentee is received from the sheriff, or no claim for arrear of taxes is received from the treasurer, the Local Master may assume that the land is not subject to any executions or taxes (other than taxes for the current year), and may enter subsequent dealing with the land accordingly; and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee, or in respect of any taxes against the land except for the current year or for a subsequent year.

(4) In case the Local Master receives from the treasurer a claim for taxes on the land, he shall enter the claim against the land, and all dealings with the land shall be subject to such claim. In case of executions affecting the land, an entry thereof shall be made in like manner, and all dealings with the land shall be subject to such executions.

(5) Where notices are not required to be given on account of instruments having been registered against the land, or otherwise, the Local Master shall be entitled to charge his actual disbursements.

(6) Where notices or other proceedings are necessary on account of instruments being registered, or on account of a caution having been lodged, or otherwise, the Local Master shall be entitled to charge in addition to his disbursements the like fees as are payable to the Master of Titles in respect of similar proceedings. 50 V. c. 16, s. 4.

144. In case a list of patented lands, furnished to the registrar of a registry division by the Provincial Secretary under section 37 of *The Public Lands Act*, contains any land coming within this Act, it shall be stated in the list that such land is subject to *The Land Titles Act*, and the registrar shall, in the abstract index, enter the fact that the land is subject to the said Act, and shall not receive for registration any instrument affecting the land. 50 V. c. 16, s. 5.

List of patented lands sent to Registrar under Rev. Stat. c. 24, s. 37.

SCHEDULE OF RULES.

(Approved by Order in Council, July 11th, 1887.)

PROCEEDINGS FOR A FIRST REGISTRATION.

Application for Registration.

1.—(1) The application for a first registration of land under this Act, shall state the nature of the interest of the applicant, and a general description, in concise terms, of the land; it shall also state whether the registration applied for is with an absolute, a qualified, or a possessory title. Rule 1, 12, and Form 6 made under Imp. Act, 38 & 39 V. c. 87.

(2) Where the application is for the registration of a nominee, or is made by a purchaser, the consent in writing of the nominee or his solicitor, or the vendor or his solicitor, shall be left with the application.

(3) Where the application is made by virtue of a trust or power of sale, the consent in writing of the persons, if any, whose consent is required to the exercise of the trust or power shall be also left with the application. 48 V. c. 22, Rule 1.

(4) Where a qualified title is applied for, or where only a qualified title is shewn, if the qualification is of a complicated character, or if for any other reason the Master of Titles deems it improper that the land should be registered with the requisite qualification, the Master may refuse registration. *New.*

Possessory Title.

2.—(1) If the application is for registration with a possessory title only, there shall be left in the office with the application an affidavit made by the applicant (or by one of the applicants, if more than one, or by some person whose consent is required to the application) and his solicitor, to the best

of their respective knowledge, information and belief, verifying the description, and to the effect that the applicant, either alone or with the person (if any) consenting to such application and either subject or not to incumbrances, is well entitled for his or their own benefit, or as holding the land on trust for sale, or as a trustee, or otherwise having a power of selling the land (as the case may be), to an estate in fee simple, or the power of disposing, by way of sale, of an estate in fee simple in the land, that the actual possession, or receipt of the rents and profits, thereof is in accordance with the applicant's title, stating who is in actual occupation of the land and if a tenant of the applicant is in occupation for what term he claims to be entitled, and that the applicant (or his nominee) is entitled under the Act to be registered as the owner of the land, and that the documents of title (if any) mentioned in the schedule to the affidavit comprise amongst others (if the fact be so) the last conveyance or other document under which the applicant's title is derived.

(2) Such notice (if any) of the application for registration, or of the registration, shall be given as the Master of Titles may direct.

(3) Where the Master of Titles is satisfied that it will be proper to grant the application, the registration may be made accordingly. 48 V. c. 22, Rule 2.

Absolute or Qualified Title.

Imp. Act 38 &
39 V. c. 87,
s. 70.

3. If the application is for a first registration with absolute or qualified title the application shall be supported by the following particulars, unless any thereof shall be dispensed with by the Master of Titles :

1. The title deeds (if any) and evidences of title relating to the land which are in the possession or power of the applicant ;

Rev. Stat. c.
113

2. A certified copy of the memorials of all other registered instruments affecting the land, or of all since the last judicial certificate, if any, under *The Quieting Titles Act*, was given (as the case may be) ;

3. The certificate of the Registrar of the county or other registry Division in which the land lies, shewing what instruments are registered affecting the land ;

4. Proofs of any facts which are required to be proved in order to make out the title, and which are not established by the other produced documents, unless the Master of Titles shall dispense with such proofs until a future stage of the investigation ;

5. An affidavit, or deposition by the person whose title is to be investigated, and a certificate of one of his counsel or solicitors, to the effect hereinafter respectively mentioned, unless the Master of Titles sees fit, for some special reason, to dispense with the same respectively ;

6. A schedule of the particulars produced under the preceding five sub-sections. 48 V. c. 22, Rule 3.

Affidavit of Applicant.

Imp. Act,
38 & 39 V.
c. 87, s. 70.
Forms 3 and 4
made under
Imp. Act.

4.—(1) The affidavit or deposition of the person whose title is to be investigated shall state to the effect, that to the best of his knowledge and belief he is the owner of the estate or interest (whatever it is) which is claimed in the application, subject only to the charges and incumbrances set forth in the application, or that there is no charge or incumbrance affecting the land ; that the deeds, wills, and instruments of title which he produces, and of which a list is contained in the schedule produced under the preceding rule, are all the title deeds and instruments of title relating to the lands which are in his possession or power ; and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein ; or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any except what he sets forth.

(2) The affidavit or deposition shall also set forth whether any one is in occupation of the land, and under what claim, right or title; and shall state that to the best of the deponent's knowledge, information and belief, the said affidavit or deposition, and the other papers produced therewith, fully and fairly disclose all facts material to the title claimed by the applicant, and all contracts and dealings which affect the same or any part thereof, or give any right as against the applicant.

(3) The said affidavit or deposition may, in a proper case, be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by the one, and as to part by another, at the discretion of the Master of Titles; and in such case, the affidavit shall be modified accordingly. 48 V. c. 22, Rule 4.

Certificate of Counsel or Solicitor.

5. The certificate of the counsel or solicitor shall state to the effect that he has investigated the title and believes the party to be the owner of the estate which the application claims in the land in question, subject only (if such be the case) to any charges or incumbrances that may be set forth in the application (or that he so believes, subject to any condition, qualification or exemption to be set forth in the certificate); and that he has conferred with the deponent on the subject of the various matters set forth in the affidavit or deposition (if any) referred to in the next preceding two rules, and believes the affidavit or deposition to be true. 48 V. c. 22, Rule 5.

Imp. Act 38
& 39 V.
c. 87, s. 70.
Forms 3 and 4
made under
Imp. Act.

Mode of Proof.

6. The proofs required may be by, or in the form of affidavits or certificates; or may be given *viva voce*; or may be in any other manner or form that, under the circumstances of the case, is satisfactory to the Master of Titles in regard to the matters to which the same relate. 48 V. c. 22, Rule 6.

Payment of Taxes and Assessments.

7. Before the completion of a first registration of any land under this Act where an examination of title is required, satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments, for which the land is liable, except those for the current year have been paid or as the fact may be. 48 V. c. 22, Rule 7.

Registration of Certificates of Application.

8.—(1) A certificate by the Master of Titles, of the application for registration, shall be registered in the registry office of the registry division where the land lies before the first registration in the Land Titles Office is completed. For registering and indexing the certificate the Registrar shall be entitled to a fee of one dollar. 48 V. c. 22, Rule 33 (3).

Registration
of certificate
of application.

(2) The registration of the said certificate shall be equivalent to the registration of a certificate of *lis pendens* in an action in the High Court. *New.*

Production of Further Evidence.

9. If the Master of Titles is not satisfied with the evidence of title produced in the first instance, he shall give a reasonable opportunity of producing further evidence, or of removing defects in the evidence produced. 48 V. c. 22, Rule 8.

Publication of Notice.

Rule 10 and 14
made under
Imp. Act 38 &
39 V. c. 87.

10.—(1) Before the completion of a first registration as aforesaid, the Master of Titles shall, except as hereafter provided, direct notice of the application to be published in the *Ontario Gazette*, and, if he sees fit, in any other newspaper or newspapers, and in such form and for such period as he thinks expedient.

(2) The registration shall not be completed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Master of Titles may appoint.

(3) If the Master of Titles is satisfied respecting the title, and considers that the registration can safely be completed without any other notice of application than the published notice so required, he shall complete the same accordingly.

(4) Notice of any number of applications may be included in one advertisement if the Master of Titles thinks fit, and in such case the expense of the advertisement shall be borne by the several applicants in such proportions as the Master of Titles may direct.

Rev. Stat. c.
113.

(5) The Master of Titles may dispense with the advertisement where the applicant is the original grantee from the Crown, or produces all the title deeds by which the title is traced from such grantee, or all the title deeds by which the title is traced for 40 years by a registered title, or where the applicant or some one through whom he claims, has obtained a Certificate of Title under *The Quieting Titles Act*, and the applicant produces all the title deeds subsequent to the certificate: Provided in every case that the applicant is in actual occupation of the land, or that every other person in actual occupation thereof is notified, or that the land is vacant, and the applicant is in constructive possession thereof by having paid the taxes. 48 V. c. 22, Rule 9.

Notice to Adverse Claimant.

Rule 10, made
under Imp.
Act 38 & 39
V. c. 87.

11. In case there appears to exist any claim adverse to, or inconsistent with, that of the applicant to or in respect of any part of the land, the Master of Titles shall direct such notice as he deems necessary to be mailed to or served on the adverse claimant, his solicitor or agent. 48 V. c. 22, Rule 10.

Additional Notices.

Rule 12, made
under Imp.
Act 38 & 39
V. c. 87.

12. In all cases the Master of Titles may require from time to time any further publication to take place, or any other notice to be mailed or served that he deems necessary before granting the Certificate. 48 V. c. 22, Rule 11.

Objections.

Rule 11, made
under Imp.
Act 38 & 39
V. c. 87.

13.—(1) Any person having an adverse claim, or a claim not recognised in the application, may at any time before the registration under this Act is completed, file and serve on the applicant, his solicitor or agent, a short statement of his claim, which may be according to the form set forth in the Schedule of Forms.

(2) This claim shall be verified by an affidavit to be filed therewith, and shall contain an address in this Province at which service on the objector shall be made. 48 V. c. 22, Rule 12.

Hearing of Objection.

14. The applicant or his solicitor shall obtain an appointment before the Master of Titles for hearing any objection which shall have been duly left in the office. Service of the appointment shall be made on the objector or his solicitor seven clear days before it is returnable. The parties may be heard in person, or by counsel or solicitor. 48 V. c. 22, Rule 13.

Decision in Contested Cases.

15. In case of a contest, the Master of Titles may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to the Court, or to any mode of investigation which is usual in other cases, or which he deems expedient, according as the circumstances of each case render just, and may defer completing the registration until afterwards. 48 V. c. 22, Rule 14.

Costs.

16.—(1) The Master of Titles may, at any stage of the cause, order security for costs to be given by the applicant for registration, or by any person making any adverse claim. 48 V. c. 22, Rule 15.

(2) If the Master orders costs to be paid by any person, he may either fix the amount or may direct payment after taxation and in that case the said costs may be taxed by either of the taxing officers of the Supreme Court of Judicature for Ontario, who shall tax the same subject to any special direction the Master of Titles may give.

(3) Upon such taxation the like fees shall be payable to the taxing officer in stamps as are payable upon a taxation under an order of a Judge of the High Court and the practice and rules applicable to a taxation under a Judge's order shall apply to the said taxation. *New.*

Abatement of Proceedings.

17. In case of death or change of interest pending registration, the proceedings shall, subject to the provisions of this Act, be available to such person as the Master of Titles on application, having regard to the rights of the several persons interested in the land, may direct, if such person thinks proper to adopt the same; and the Court or the Master of Titles may require notices to be given to persons becoming interested, or may make any order for discontinuing or suspending or carrying on the proceedings, or otherwise in relation thereto, as under the circumstances may be just. 48 V. c. 22, Rule 16.

Rule 5, made under Imp. Act 38 and 39 V. c. 87.

Caution Against Entry of Land on Register.

18.—(1) Every Caution lodged under section 68 of the Act shall be signed by the cautioner or his solicitor, and shall contain a place of address in this Province at which any notice may be served; and the affidavit in support of the Caution shall be left therewith and shall contain a description of the land. The period to be limited by the notice to be served on the cautioner under section 71 shall be 14 days, or such other period not less than 7 days, as the Master of Titles may direct. The notice shall be served either personally or through the post.

Rule 15 made under Imp. Act 38 & 39 V. c. 87.

(2) Every Caution under section 68 shall be renewed before the expiration of 5 years from the date of lodging the same; otherwise it shall cease to have effect. 48 V. c. 22, Rule 17.

PROCEEDINGS ON AND AFTER FIRST REGISTRATION.

Caution against Dealing with Registered Land.

19.—(1) Every Caution lodged under section 61 of the Act shall be signed by the cautioner or his solicitor or by his agent duly authorized in writing, and shall contain a place of address in the Province, at which any notice may be served, and the affidavit in support of the caution shall contain a reference to the land or charge to which the caution applies, and to the registered number of the estate, and shall also contain the particulars of the cautioner's interest in such land or charge.

Rule 16, made under Imp. Act 38 & 39 V. c. 87.

(2) The period to be limited by the notice to be served on the cautioner under section 62 of the Act shall be 14 days, or such other period, not less than 7 days, as the Master of Titles may direct. The consent of a cautioner under section 62 shall be signed by him, or by his agent duly authorized in writing and shall be attested and duly verified. 48 V. c. 22, Rule 18.

Inhibitions.

Rule 17, made
under Imp.
Act 38 & 39
V. c. 87.

20. Every application to the Master of Titles for an inhibiting order under section 64 of the Act shall be supported by the affidavit of the applicant or his solicitor, stating the grounds of the application and referring to the evidence in favour thereof. An appointment shall be then made for hearing the same and for production of the evidence in support thereof. 48 V. c. 22, Rule 19.

Restrictions.

Rule 18, made
under Imp.
Act 38 & 39
V. c. 87.

21.—(1) Every application under section 65 of the Act shall state the particulars of the direction or restriction required to be entered on the register, and shall be proceeded with as the Master of Titles shall direct; and every application under section 66 of the Act to withdraw or modify any direction or restriction shall be made and signed by all persons for the time being appearing by the register to be interested in such direction or restriction, and shall be attested and duly verified.

Rule 19, made
under Imp.
Act 38 & 39
V. c. 87.

(2) Before any entry is made upon the register under the third paragraph of section 85 of the Act the consent in writing thereto of the persons to be entered as the registered owners of the land or charge, stating the particulars of the entry required, shall be lodged in the office. 48 V. c. 22, Rule 20.

CHARGE OF REGISTERED LAND.

Rule 20, made
under Imp.
Act 38 & 39
V. c. 87.

22.—(1) The instrument by which any charge of freehold or leasehold land shall be made under section 28 of the Act shall be left in the office, and the execution thereof by the registered owner of the land shall be attested and duly verified.

(2) Where it is desired that an entry should be made on the register negating the implied covenants referred to in sections 29 and 30 of the Act, or that any entry should be made on the register, contrary to the powers given to a registered owner of a registered charge by sections 31, 32 and 33, respectively, or contrary to the provisions of section 34 as to the priority of registered charges, the application to be made in that behalf shall state the particulars of the entry required to be made, and shall be signed, and the signature attested and verified in the same manner as is required with respect to the execution of the instrument of charge.

(3) Such verification may, where practicable, be made by the same affidavit as that verifying the execution of the instrument of charge.

(4) In the event of a foreclosure or sale being enforced by the registered owner of the charge, the Master of Titles shall, upon the application of the person entitled to the benefit of the foreclosure or sale, and on proper proof, make all necessary entries in the register. 48 V. c. 22, Rule 21.

TRANSFER OF REGISTERED CHARGE.

Rule 21, made
under Imp.
Act 38 & 39
V. c. 87.

23. The instrument by which any transfer of charge shall be made, under section 47 of the Act, shall be left in the office, and the execution thereof by the registered owner of the charge shall be attested and duly verified. 48 V. c. 22, Rule 22.

Cessation of Charge and Determination of Lease.

24.—(1) Where the cessation of a charge entered on the register is required to be notified under section 35 of the Act, the application shall be signed by the registered owner of the land or his solicitor, and shall be attested and duly verified. Rule 22, made under Imp. Act 38 & 39 V. c. 87.

(2) If the application is not concurred in by the registered owner of the charge, due proof of the satisfaction of the charge shall be left with the application.

(3) The Master of Titles, upon being satisfied of the cessation of a charge, shall, where convenient, notify the same by cancelling the original entry, or shall otherwise enter on the register the fact of such cessation. 48 V. c. 22, Rule 23.

(4) This rule shall, where applicable, extend to applications to notify the determination of any lease or agreement for a lease under section 58. *New.*

TRANSFER OF REGISTERED LAND.

25. The instrument by which any transfer of land shall be made, under section 36 or 41 of the Act, shall be left in the office, and the execution thereof by the registered owner shall be attested and duly verified. Rule 23, made under Imp. Act 38 & 39 V. c. 87.

Entry Negating Implied Covenants on Transfer of Leasehold Land.

26. Every application requiring an entry to be made on the register negating the implied covenants referred to in section 46 of the Act, shall state the particulars of the entry required to be made, and shall be signed, attested and verified, in the same manner as is required with respect to the execution of the instrument of transfer. The verification may, where practicable, be made by the same affidavit as that verifying the instrument of transfer. 48 V. c. 22, Rule 25. Rule 24, made under Imp. Act 38 & 39 V. c. 87.

Evidence of Transmission of Registered Ownership.

27. Where it is required to prove the fact of any person having become entitled to any land or charge, in consequence of the death of any registered owner, the application shall state the fact to be proved, and the nature of the evidence in support thereof. The evidence shall be left in the office with the application, and the fact shall be proved to the satisfaction of the Master of Titles, and the matter shall be proceeded with as he shall direct. 48 V. c. 22, Rule 26. Rule 25, made under Imp. Act 38 & 39 V. c. 87.

Death of Registered Owner, and Dower or Curtesy.

28.—(1) Every application under section 49, 50 or 60 of the Act, shall be supported by the affidavit of the applicant and his solicitor, showing concisely the existing rights of the several persons interested in the land or charge affected by the application. Rule 26, made under Imp. Act 38 & 39 V. c. 87.

(2) The evidence in support of the application shall be left therewith in the office, and the Master of Titles may require such other evidence (if any) and such notices to be given as he may think fit, and the matter shall be proceeded with as he shall direct. 48 V. c. 22, Rule 27.

Cessation of Incumbrances and of Leases entered on first Registration.

Rule 27, made
under Imp.
Act 38 & 39
V. c. 87.

29.—(1) Where, upon the first registration of any freehold or leasehold land, notice of an incumbrance affecting such land has been entered on the register, the cessation of which is required to be notified under section 25 of the Act, the applicant, in case there has been any dealing with, or transmission of, or interest created or arisen in, such incumbrance, not appearing on the register, shall leave in the office an abstract of his title to make the application and prove the same in the usual way, and the matter shall be proceeded with in the mode provided in the cases of examination of title on registration, subject to any special directions of the Master of Titles.

(2) Where there has been no dealing with the incumbrance, the applicant shall produce the instrument of incumbrance with a release or receipt thereon signed by the registered owner of the incumbrance, whose signature and identity shall be duly verified.

(3) The Master of Titles, upon being satisfied of the cessation of an incumbrance, shall notify the same by cancelling, where convenient, the original entry, or otherwise by entering on the register the fact of such cessation.

(4) This rule shall, where applicable, extend to applications to notify the determination of any lease of registered leasehold land, under section 26 of the Act. 48 V. c. 22, Rule 28.

Notice of Lease or Agreement.

Rule 28, made
under Imp.
Act 38 & 39
V. c. 87.

30.—(1) Every application to register notice of a lease or agreement, under sections 58 and 59 of the Act, shall contain a concise statement of the terms of the lease or agreement for a lease to be noticed.

(2) If the registered owner of the land does not concur, and a copy only of the original lease or agreement is deposited with the Master of Titles the lease or agreement shall be produced for comparison with the copy.

(3) If the registered owner concurs, he shall be a party to and sign the application, and his signature shall be attested and duly verified, and the application shall state the terms of the notice proposed to be entered, but such terms shall be subject to the approval of the Master of Titles.

(4) The lease or agreement shall be left with the application, and shall be stamped or endorsed to shew that a notice of it has been entered upon the register. 48 V. c. 22, Rule 29.

Entry as to Exceptions under Section 24.

Rule 29, made
under Imp.
Act 38 & 39
V. c. 87.

31.—(1) Every application requiring an entry to be made on the register in respect to any of the liabilities, rights and interests, that are by the Act declared not to be incumbrances, shall state the particulars of the entry required to be made.

(2) The evidence in support of the application shall be left therewith, and the application shall be proceeded with in such manner as the Master of Titles shall direct. 48 V. c. 22, Rule 30.

32. Any fact to be notified on the register under section 24 of the Act shall be entered in or against the registered description of the land unless the Master of Titles otherwise directs. 48 V. c. 22, Rule 31.

Conditions and Covenants Annexed to Land.

Rule 31, made
under Imp.
Act 38 & 39
V. c. 87.

33.—(1) Every application to register conditions or covenants as annexed to land about to be registered, or to any registered land about to be transferred, shall be made, in case of land about to be registered, either by the person who by himself or nominee is about to be registered as owner of the land, or

with his consent in writing, duly verified, and, in the case of land about to be transferred, either by the person actually registered as owner of the land, with the consent in writing, duly verified, of the intended transferee, or by such transferee, with the consent in writing, duly verified, of the registered owner.

(2) In any case of conditions or covenants being annexed on application under section 86, or on first registration arising on the examination of title, a copy of the conditions or covenants, or of the document containing them, shall be left in the office, and the registration of such conditions or covenants may be made by reference on the register to such copy.

(3) On the registration of any leasehold land, held under a lease containing a prohibition against alienation without license, provision shall be made for preventing alienation without such license by an entry on the register of a reference to such prohibition. 48 V. c. 22, Rule 32.

Land Certificate.

34.—(1) A land certificate shall be under the seal of the office, and contain a copy of the registered description of the land, and the name and place of residence of the registered owner, and a short statement of such other matters (if any) as may for the time being be entered on the register as affecting the land, and shall state whether the registered ownership is absolute, qualified, or possessory.

(2) A land certificate to the transferor under section 36 where only part is transferred may, if the Master of Titles shall so think fit, consist of his subsisting land certificate, if any, with a memorandum thereon shewing the part disposed of.

(3) No new land certificate shall be issued under section 36 to the same owner unless the old certificate is delivered up, except as provided in section 80. 48 V. c. 22, Rule 33, (2, 4, 5).

(4) Where the whole parcel is transferred, the Master instead of delivering a new certificate, may write on the existing certificate a memorandum shewing the transfer, and the same shall have the effect of a new certificate to the transferee. *New.*

Certificate of Charge.

35. A certificate of charge shall be under the seal of the office, and may at the option of the applicant contain either a copy of the entry on the registry of such charge, with a reference to or a copy of the registered description of the land, or the same particulars as a land certificate. 48 V. c. 22, Rule 33 (6).

Registered Lease and Office Copy thereof.

36.—(1) Every lease or copy of such lease, or of a counterpart thereof, deposited with the Master of Titles under section 17 of the Act shall be retained in the office during the continuance of such lease.

Rule 34, made under Imp Act 33 & 39 V. c. 87.

(2) Application for an office copy of a registered lease shall be made by the registered owner entitled to have and requiring the same. The office copy shall be marked as an office copy and authenticated under the seal of the office.

(3) In addition to or as part of the particulars required by section 22 of the Act to be endorsed on an office copy lease, a copy of or a reference to the registered description and the map, if any, annexed thereto, shall be endorsed on or annexed to such office copy.

(4) Where a fresh copy is required under section 41 of the Act, in addition to such of the particulars provided by section 22 of the Act and this rule to be endorsed on an office copy or annexed thereto, as

in the Master's opinion may be applicable, there shall be annexed to such fresh office copy and referred to in an endorsement thereon a copy of the map (if any) referred to in the registered description of the part transferred, shewing the part so transferred, and an endorsement shall be made on the office copy of the part retained, shewing the part disposed of by reference to its registered description, or otherwise. 48 V. c. 22, Rule 34.

New Land Certificate, Office Copy Lease, or Certificate of Charge.

Rule 35, made
under Imp.
Act 38 & 39
V. c. 87.

37. Every application for a new land certificate, or office copy of a registered lease, or certificate of charge to be granted, under section 80 of the Act, shall be supported by an affidavit of the applicant, stating the fact that the former one has been lost, mislaid, or destroyed, and the circumstances thereof, and the new certificate or copy shall contain a statement that it is granted in the place of the certificate or copy lost, mislaid, or destroyed. 48 V. c. 22, Rule 35.

Questions arising on Registrations.

Rule 36, made
under Imp.
Act 38 & 39
V. c. 87.

38. If, at any time during the investigation of title, or in any registration proceeding, any question or doubt or dispute arise, notice may, with the consent of the Master of Titles, be given by the applicant to any person interested in such question or doubt or dispute, to the effect that the same will be brought before the Master of Titles at a time to be mentioned in such notice, and that such person may attend before the Master of Titles at such time by himself, or his counsel or solicitor, and take part in the investigation and settlement of such question, doubt, or dispute. 48 V. c. 22, Rule 36.

Number of Registered Owners.

Rule 37, made
under Imp.
Act 38 & 39
V. c. 87.

39. No more than four persons shall at any time be registered as owners of the same land or charge. If the number of persons shewing title exceeds four, such of them, not exceeding four, shall be registered as they may in writing agree upon, or, in case they cannot agree, as the Master of Titles may, upon application, decide after such notices have been given (if any), and proceedings taken as the Master of Titles may direct. 48 V. c. 22, Rule 37.

MISCELLANEOUS.

Applications to be Signed.

Rule 38, made
under Imp.
Act 38 & 39
V. c. 87.

40. Every application to be made under these Rules shall be signed by the applicant or his solicitor. 48 V. c. 22, Rule 38.

Abstracts and Documents to be Retained in Office.

Rule 40, made
under Imp.
Act 38 & 39
V. c. 87.

41. All abstracts and copies of documents and all documents for registration left in the office shall be retained in the office, pending completion of the registration to which they relate, and shall be afterwards dealt with as the Master of Titles shall direct. Abstracts and documents shall where practicable be examined with the originals. 48 V. c. 22, Rule 39.

Documents, etc., to be fairly Written.

Rule 41, made
under Imp.
Act 38 & 39
V. c. 87.

42. The Master of Titles may refuse to receive any abstract or document that is not fairly written, lithographed, or printed, or is not in conformity with the rules of the office. 48 V. c. 22, Rule 40.

Documents Executed by Attorney.

Rule 42, made
under Imp.
Act 38 & 39
V. c. 87.

43. If any document, left in the office for registration purposes, has been executed under a power of attorney, the power of attorney shall be produced, and, if the Master of Titles shall so direct, left in the office, and

the execution thereof by, and the identity of, the principal, and the execution of the document by, and the identity of, the attorney shall be duly verified, and such evidence furnished (if any) that the power of attorney was effectual at the date of the execution of the document thereunder as the Master of Titles may direct. 48 V. c. 22, Rule 41.

Destruction of Exhausted Instruments.

44. The Master of Titles may direct the destruction of any instruments in his possession or custody where they have become altogether superseded by entries in the register or have ceased to have any effect. 48 V. c. 22, Rule 42. Rule 43, made under Imp. Act 38 & 39 V. c. 87.

Stationery, Charges, and Stamps.

45.—(1) All copies, entries, engrossments, or other writings made by a stationery clerk in the office, and all stationery and forms supplied by the office in the course of registration, shall be paid for by the applicant, in stamps or otherwise as the case may require. Rule 45, made under Imp. Act 38 & 39 V. c. 87.

(2) No entry shall be made on the register before the stamps (if any) in respect of the fees payable by stamps under the Act, and any rules thereunder, have been impressed or affixed on some document sent to or lodged in the office with reference to the proposed registration, or as the Master of Titles shall direct, and before all expenses payable under the Act and rules have been provided for.

(3) Every officer of the land registry who shall receive any document to or upon which a stamp shall be affixed or impressed, under the Act or rules, shall, immediately on receipt of such document, cancel the stamp thereon, as provided by *The Act respecting Law Stamps*. Rev. Stat. c. 22.

(4) The Master of Titles may refuse to receive in the office any document requiring to be and not duly stamped. 48 V. c. 22, Rule 43.

Copies of Documents.

46. In the case of any uncanceled instrument affecting land, which may be deposited, filed, kept, or registered in the office of the Master of Titles, an exemplification or certified copy attested by the Master's seal of office, shall be received as evidence in every Court in the Province in the same manner and with the same effect as in the case of instruments registered under *The Registry Act*. 48 V. c. 22, Rule 44. Rev. Stat. c. 114.

Verification of Instruments.

47. Where the signing or execution of any document is required to be duly verified, such signing or execution shall be attested by a witness, and such verification shall be made by his affidavit, and when the document is signed or executed by a person named or referred to on the register, such affidavit shall identify the person signing or executing the same accordingly. 48 V. c. 22, Rule 45. Rule 46, made under Imp. Act 38 & 39 V. c. 87.

Evidence.

48 The Master of Titles may, if he thinks fit, require evidence to be given *viva voce* before him. 48 V. c. 22, Rule 46. Rule 47, made under Imp. Act 38 & 39 V. c. 87.

The Register.

49.—(1) The register shall be made and kept in such mode that in every case where there is a registered owner of land, such land and any transactions relating thereto authorized to be entered on the register shall form a page or succession of pages of the register. Rule 48, made under Imp. Act 38 & 39 V. c. 87.

(2) Unless the Master of Titles shall otherwise direct, each parcel of land separately entered on the register shall be distinguished by a separate number, and where the land originally registered is dealt with in separate parcels, each new separate parcel shall also refer to the number of the original parcel.

(3) Where a part only of the registered land is comprised in the transfer, a note shall be made on the folium of the land retained, shewing the part disposed of.

(4) The Master of Titles shall note upon the register of the title of the transferor the number of the parcel of the transferee's title, and upon that of the transferee the number of the parcel of the transferor, so that reference can be readily made from one to the other as occasion may require.

(5) No entry in the register shall be set aside or called in question by reason of any irregularity or informality in any proceeding previous to the making thereof.

(6) The Master of Titles may withdraw from the register, by cancellation or otherwise, any notice or entry which he is satisfied no longer affects the registered land. 48 V. c. 22, Rules 24 (2), 47, 55.

Substituted Description.

Rule 49, made
under Imp.
Act 38 & 39
V. c. 87.

50.—(1) In case the registered owner of any land is desirous that a revised description shall be substituted for the then registered description, the Master of Titles, if he sees good reason, may in his discretion cause a revised description to be substituted accordingly.

(2) In that case such substituted description shall thenceforth be the registered description of the land, but without prejudice to the description existing at the time of such substitution, so far as relates to estates previously registered. 48 V. c. 22, Rule 48.

Plans.

51.—(1) An owner sub-dividing land for the purpose of selling or conveying the same in lots shall deposit with the Master of Titles a map of the land on a scale not less than one inch to every four chains, which shall be marked on the plan. The plan shall shew the number of the township, town, or village lots, and range or concession as originally laid out, and all the boundary lines thereof within the limits of the land shewn on the said plan, and where the plan is a sub-division of a lot or lots on a former plan it shall shew the numbers or other distinguishing marks of the lot or lots sub-divided and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons within the same, with the courses and widths thereof respectively, and the width and length of all lots, and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being sub-divided. 48 V. c. 22, Rule 49.

(2) Every such plan shall be signed by the owner of the land or his agent, or when a corporation is the owner by the chief officer of the corporation, and shall be certified by a Provincial Land Surveyor in the form given in the schedule appended hereto.

(3) Every such plan shall be mounted on stiff pasteboard of good quality, and in case it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed this size.

(4) The Master of Titles, before filing the plan, may require evidence to be given explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or may require evidence respecting any other matter which he considers requires to be explained. *New.*

52.—(1) In other cases the Master of Titles may require a person applying for registration under this Act, to deposit a map or plan of the land, with the several measurements marked thereon, certified by a licensed provincial surveyor and so many counterparts as may be required, and upon one of the following scales :—

Rules 50 & 51,
made under
Imp. Act 38 &
39 V. c. 87.

(a.) If the land, or the portion thereof proposed to be transferred or dealt with, is of less area than one acre, then the map or plan shall be on a scale not less than one inch to two chains.

(b.) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, then the map or plan shall be on a scale not less than one inch to five chains.

(c.) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, then the map or plan shall be on a scale not less than one inch to ten chains.

(d.) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than eighty acres, then the map or plan shall be on a scale of one inch to twenty chains.

(2) The owner shall sign the said plan and verify the accuracy of the same before any person authorized under section 112.

(3) If the owner neglects or refuses to comply with such requirements as aforesaid, the Master of Titles may refuse to proceed with the registration of the transfer or dealing.

(4) Subsequent sub-divisions of the same land may be delineated upon a duplicate of the map or plan of the same so deposited, if the same is upon a sufficient scale in accordance with the provisions herein contained ; and the correctness of the delineation of each such sub-division shall be acknowledged in the manner prescribed for the case of the deposit of an original map.

(5) Where parts of different legal sub-divisions are included in the same transfer, the map shall represent the whole of such legal sub-divisions, and shall indicate the location of the lands to be transferred ; this shall not be necessary in the case of lots in a city, town or village the plan of which has been registered unless the Master shall otherwise direct.
48 V. c. 22, Rule 50.

Summonses and Production of Public Documents.

53. Upon any summons being issued under section 118 of the Act, the affidavit verifying the service thereof shall also prove that the reasonable charges of the attendance of the person summoned, and of his production of the documents (if any) required to be produced, have been paid or tendered to him. 48 V. c. 22, Rule 51.

Notices, Preparation and Service of.

54.—(1) All notices and summonses required to be given or served for any purpose shall be prepared by the applicant on the official forms and under the stamp of the office, and such portions thereof as are in manuscript shall be legibly written.

Rule 53, made
under Imp.
Act 38 & 39
V. c. 87.

(2) If the service of the notices or summonses be personal, it shall be proved by affidavit.

(3) If the service be through the post, it shall be made by prepaid registered letter. In such case open official envelopes, duly stamped and addressed, and marked outside, "Office of Land Titles, Toronto," and "to be returned to the Office of Land Titles, Toronto, if not called for or

delivered in ten days," or to the like effect, and with the word "Registered," and containing the notices stamped, shall be left at the office of Land Titles for mailing.

(4) Every notice required to be given shall, if sent through the post, unless returned, be deemed to have been received by the person addressed within 7 days, exclusive of the day of mailing.

(5) On the return of any letter containing any notice, the Master of Titles shall act in the matter requiring such notice to be given, in such manner as he shall think fit. 48 V. c. 22, Rule 52.

Substituted Service.

Rule 54, made under Imp. Act 38 & 39 V. c. 87.

55. Substituted service on the solicitor or agent of any person shall be deemed good service on such person if the Master of Titles shall so direct. 48 V. c. 22, Rule 53.

Discretionary Power of Master.

Rule 55, made under Imp. Act 38 & 39 V. c. 87.

56. —(1) The Master of Titles, if he so thinks fit, may extend the time limited by general rules for any purpose, and where the signing or execution of any document or instrument, or any act is required by such rules to be attested and verified or done by a solicitor, may accept such document or instrument though not so attested or verified, and may give such directions in respect of such act though not so done, as he may think fit, and upon such terms and conditions (if any) in every such case as he may think proper.

(2) If at any time the Master of Titles is of opinion that any further or other evidence is necessary or desirable, he may refuse to enter the instrument or dealing in the register until such further or other evidence has been produced. 48 V. c. 22, Rule 54.

Indexes and Inspection.

Rev. Stat. c. 114.

57. There shall be kept by the Master of Titles alphabetical indexes corresponding as nearly as may be to the indexes provided for by *The Registry Act*; and any person may inspect the said indexes or the entries in the register. Documents on which cessation of incumbrances or leases are notified need not be entered in the said indexes. 48 V. c. 22, Rule 56.

Rule 57, made under Imp. Act 38 & 39 V. c. 87.

58. All copies or extracts from any register or document in the custody of the Master of Titles relating to any land or charge, shall be made by a clerk in the office. No document not referred to in the register of the existing ownership shall, without the consent of the Master of Titles, be inspected by any person other than the registered owner or any one having his written consent. 48 V. c. 22, Rule 57.

Forms.

Rule 58, made under Imp. Act 38 & 39 V. c. 87.

59. —(1) The forms in the schedule hereto shall be used in all matters to which they refer or are capable of being applied or adapted, with such alterations and additions only as are necessary to meet the circumstances of each case: but no recital, reservation, covenant, declaration or other provision not referred to in or required by such forms, shall be inserted therein, unless the Master under special circumstances otherwise directs.

(2) Official copies of the forms may be supplied through the office, and may, where practicable, be used in all matters to which the forms relate.

(3) The Master of Titles may reject any document which is informal, or which he may consider is not in accordance with this rule. 48 V. c. 22, Rule 58.

Appeal.

60.—(1) Upon any application to the Court being made on the requirement of or appeal from the Master of Titles, or for the rectification of the register under section 96, a statement shall be prepared by the applicant and settled and signed by the Master of Titles, and forwarded to the Court through the office before the hearing. Rule 59, made under Imp. Act 38 & 39 V. c. 87.

(2) All applications to the Court and appeals from the Master of Titles shall be in the same manner and subject to the same regulations (as nearly as may be) as appeals from the Master in Chambers under *The Judicature Act* and Rules, except that the notice of appeal shall be served within 7 days after the decision complained of, or within such further time as may be allowed by a Judge of the High Court or by the Master of Titles, and the motion shall be made within 14 days after the said decision, or within such further time as may be allowed as aforesaid. Rev. Stat. c. 41

(3) No appeal from a decision or order of the Master of Titles, or of the Court, shall affect any dealing for valuable consideration duly registered before a notice in writing of such appeal has been lodged in the office on the part of the appellant, and a note thereof made, on his application, in the register.

(4) No appeal shall be brought from a decision or order of the Court, after 28 days from the date of such decision or order, without leave of the Court.

(5) Service of any order, or official copy of an order, of any Court on the Master of Titles, shall be made by leaving the same in the office, and an application shall be left at the same time for the rectification of the register being made, or any other act being done, in accordance with such order, and the matter shall be proceeded with as the Master of Titles shall direct. 48 V. c. 22, Rule 59.

Hours of Attendance.

61. Unless on Saturdays and during the long vacation, the office of the Master of Titles shall be open from the hour of ten in the forenoon until four in the afternoon every day in the year, Sundays and holidays excepted. On Saturdays and during the long vacation the said office shall be open from ten in the forenoon till two o'clock in the afternoon. 48 V. c. 22, Rule 60.

SCHEDULE OF FORMS.

(Approved by Order in Council, 11th July, 1887.)

1.—Form of Application for first Registration of Ownership.

LAND TITLES ACT.

A. B., of, etc., being entitled for his own benefit to an estate in fee simple in the land, (or as the case may be, according to sections 5 to 9 of the Act), in the township of _____, in the county of York, called _____, or known as _____, containing by estimation and described in the schedule hereto (or described as follows, as the case may be) applies to be registered _____ (or where applicable, to have registered in his stead C. D., of, etc.), as owner of such land (or leasehold land) with (in the case of freehold land), a Possessory title (or with an Absolute title, or, in the case of leasehold land, with or without a declaration of the lessor's title to grant the lease, as the case may be). Form 1 under Imp. Act 38 & 39 V. c. 87.

Subject to the following charges and incumbrances (*where the property is incumbered.*)

The address of the said *A. B.* (and *C. D.* respectively) for service is at
(*if the application is made through a solicitor, the office of such solicitor should be given.*)

Dated this day of , 18 .

(*Signature of the applicant or his solicitor.*)

The above-mentioned *C. D.* (*or the vendor or the person whose consent is required to the execution of the trust or power to sell*) hereby consents to the above application.

(*Signature of C. D., or the vendor or his solicitor, or of the other consenting parties.*)

48 V. c. 22, Form 4.

2.—Certificate of Counsel.

LAND TITLES ACT

I of Barrister, (*or Solicitor*)
hereby certify that as counsel (*or solicitor*) for,
I have investigated his title to, &c., set forth in his application, and believe him to be the owner of the estate which he claims in the application (*subject only to the charges and incumbrances therein set forth*).

I further certify that I have conferred with the applicant on the subject of the various matters set forth in his affidavit in support of his application, and believe the same to be true.

A. B.

48 V. c. 22, Form 6.

3.—Applicant's Affidavit.

LAND TITLES ACT.

I, of make oath and say:—

1. I am the absolute owner in fee simple in possession (*or as the case may be, repeating the words of the application*) of the following land (*describing the property*) being the land mentioned in my application.

2. There is no charge or other incumbrance affecting my title to the said land (*except, stating any incumbrances which may exist.*)

3. I am not aware of any claim adverse to or inconsistent with my own to any part of the land claimed by me or to any interest therein, (*except, specify the adverse claim, if any, giving the name and address of the claimant if known, and stating how the claim arises.*)

4. The deeds and evidences of title which I produce in support of my application, and of which a list is set out in schedule A hereto annexed, are all the title deeds and evidences of title relating to the said land which are in my possession or power.

5. The title deeds and evidences of title relating to the said land which are set out or mentioned in schedule B hereto annexed, are in the possession or power of (*naming the person.*)

6. I do not know where, or in whose possession or power the title deeds and evidences of title set out or mentioned in schedule C hereto annexed are. For the said last mentioned title deeds I have caused the

following searches to be made (*set out the facts shewing the searches which have been made for the missing deeds and upon which it is intended to rely as sufficient to let in secondary evidence. Where there are no other title deeds, etc., except those named in schedule A., the fifth and sixth paragraphs of this form will be omitted.*)

7. I am (or A. B. is *shew under what claim or title*) in possession of the said land, and to the best of my knowledge and belief possession has always accompanied the title under which I claim, since the year _____ when one _____ through whom I claim took possession, and prior thereto the land was in a state of nature, (*if possession has not always accompanied the title under which the petitioner claims, state correctly the facts as to the actual possession.*)

8. I am now in actual occupation of the said land, (*or if a tenant of the applicant is in occupation, state how he claims to hold and how he in fact holds; if the tenancy is under an instrument in writing this instrument should be produced. If not by an instrument in writing this fact should be stated.*)

9. To the best of my knowledge, information and belief this affidavit and the other papers produced herewith in support of my application, and which are set forth in the schedule of particulars filed herewith, fully and fairly disclose all facts material to my title, and all contracts and dealings which affect the same or any part thereof or give any right as against me. (*Vary these statements according to the facts.*)

10. There are no arrears of taxes due upon the said land, nor has the said land, been sold for taxes during the past year, nor under execution during the past six months, and I do not know of any writs of execution in the hands of the sheriff against me, or affecting the said lands.

11. To the best of my knowledge, information and belief, no person or body corporate has any right of way, or of entry, or of damming back water, or of overflowing, or of placing or maintaining any erection, or of preventing the placing or maintaining any erection, on, in, to or over the said land, other than myself (*except, giving the names and addresses of any parties having any easement or right, and stating the particulars and nature thereof*), and the said land is not subject to any right of way or to any other easement or dominant right whatever (*except as aforesaid*).

12. The said land is not worth more than \$

13. I am married, and the name of my wife is (or I am not married.)

48 V. c. 22, Form 5.

4.—Form of first entry of Ownership in the Register.

LAND TITLES ACT.

A. B., of _____ is the owner in fee simple of (*description of property*), subject to the exceptions and qualifications mentioned in section 11 of the Land Titles Act, (and numbered therein as the case may be, if the title is free from some of them.)

In witness whereof I have hereunto subscribed my name and affixed my seal this _____ day of _____, A.D., 18 .

(Signed)

Where an easement is enjoyed with the land, say:

Together with a right of way on foot, or with horses, carriages, and other vehicles, over and upon the lane adjoining the said land, at the west side thereof, (*or according to the fact.*)

Where title is Possessory, say :

The title of *A. B.* is subject to the claims (if any) which can be enforced to the said land by reason of any defect in the title of (*name of the first registered owner*).

Where the land is subject to a Life Estate, say :

The title of *A. B.* is subject to the life estate of *G. H.*, of _____ in the said land.

And if subject to a Mortgage, say :

The title of *A. B.* is subject to a mortgage dated the _____ day of _____, made by *A. B.* to *W. B.*, to secure \$3,000 and interest at the rate of 7 per cent. per annum from the 17th day of July, 1882, payable as therein mentioned. (*When mortgage is discharged, say Discharged by Certificate No. B, 1602.*)

Where the land is subject to a Lease, say :

The title of *A. B.* is subject to a lease, dated the _____ day of _____ made by *A. B.* to *Y. Z.*, for the term of ten years.
48 V. c. 22, Form 1.

5.—Form of Register of Leasehold Interests.

LAND TITLES ACT.

A. B., of _____, is entitled to an estate for the term of his natural life in (*description of land*) mentioned and described in the Register for *Township of York*, Parcel — but subject to the liabilities and exceptions mentioned in section 19 of the Land Titles Act. And it is hereby declared that the lessor in the said lease named, had an absolute title to grant the lease creating the said term (*or as the case may be*).

In witness whereof, etc.

(*Where title of original registered owner is possessory add*) The title of *A. B.* is subject to the claims (if any) which can be enforced against the said land by reason of any defect in the title of the said *A. B.* (*or other person who was the first registered owner*).

(*Where estate is mortgaged, say*) The title of *A. B.* is subject to a mortgage dated the _____ day of _____, made by the said *A. B.* to *C. D.* to secure \$800 and interest at the rate of 7 per cent. per annum as therein mentioned.

(*If transfer made of mortgage, say :*) The mortgage _____ was transferred by *C. D.* to *E. F.* by transfer dated _____

(*If the dealings in reference to any particular incumbrance are numerous, the incumbrance can be transferred to a new folio to which reference can be made.*)

48 V. c. 22, Form 2.

6.—Form of Certificate of Ownership.

LAND TITLES ACT.

This is to certify that *A. B.* is the owner (*etc., in terms of the entry in the register*).

48 V. c. 22, Form 3.

7.—*Sheriff's Certificate.*

Sheriff's Office, County of
day of

18

I hereby certify that I have not at the date hereof in my office any writ of execution against the lands of
(or any or either of them) and that I have not had any such writ for thirty days preceding the date hereof.

I further certify that I have not sold lot in the concession of the township of under any writ of execution for six months preceding the date hereof.

F. M.,
Sheriff.

48 V. 22, Form 7.

8.—*Certificate as to Taxes.*

Treasurer's Office, County of
day of

18

I certify that no charge for arrears of taxes, charges or assessments, or for water or other rates appears at the date hereof in the books of this office against (*shortly describing the land*).

I further certify that the returns of lands in the village of in arrear for taxes for the year 18 and for all previous years have been made to this office.

And I further certify that the said land has not been sold for taxes for eighteen months preceding the date hereof.

S. B. H.,
Treasurer.

48 V. c. 22, Form 8.

9.—*Advertisement.*

LAND TITLES ACT.

In the matter of (*short description of the property*)

Notice is hereby given that A. B., &c., has made an application to the Master of Titles for a certificate of title to the above mentioned property under the Land Titles Act, whereof he claims to be the owner in fee, free from all incumbrances (except, *stating the incumbrances if any*).

Wherefore any other person having or claiming to have any title to or interest in the said land or any part thereof is required on or before day the day of, 18, to file a statement of his claim in my office in the City of Toronto, and to serve a copy on the said A. B. (or on J. H., of &c., solicitor for the applicant), and in default every such claim will be barred and the title of the applicant become absolute and indefeasible subject only to the reservations mentioned in sections 11 and 24 of the said Act.

The address of the said A. B., for service is (*give address*.)

Dated this day of 18

J. G. S.,
Master of Titles.

48 V. c. 22, Form 9.

10.—*Notice where the applicant mentions Adverse Claim which he disputes.*

LAND TITLES ACT.

Take notice that A. B., of, &c., has made an application for a certificate under the Land Titles Act, of his title to the property described below (*or as the case may be*), and take notice that if you claim any interest

therein you must lodge your claim in writing, stating the particulars thereof, at my Chambers in Toronto, on or before the day of and serve a copy on the said *A. B.*, at (*give address for service*), (*or on J. H. of, &c., solicitor for the said A. B.*), and in default thereof any claim, right or interest you may have therein will be forever barred and extinguished.

This notice is given to you because (*state reason why notice is given.*)

Given under my hand this day of 18 .

To *E. F.* *J. G. S.,*

48 V. c. 22, Form 12.

Master of Titles.

11.—Form of Objection.

LAND TITLES ACT.

In the matter of the application of *A. B.*

C. D., of, &c., hereby gives notice that he objects to the registration of *A. B.*, under the Land Titles Act, as the owner of the land called or known as , comprised in the above application.

The particulars of the objection of the said *C. D.*, are (*here state concisely particulars of objection.*)

The address of the said *C. D.*, for service is (*here give address.*)

Dated this day of 18 .

(*Signature of the objector or his solicitor.*)

48 V. c. 22, Form 10.

12.—Affidavit of Publication of Advertisement.

LAND TITLES ACT.

In the matter of the application of *E. F.*

I, *A. B.* of, &c., make oath and say :

1. The advertisement of which a duplicate is hereto annexed, and marked A, appeared and was published in the issues of the *Ontario Gazette* of the and days of 18 .

2. The advertisement of which a duplicate is hereto annexed and marked B, appeared and was published in the issue of the newspaper of the day of 18 .

3. The advertisement of which a duplicate is hereto annexed and marked C, appeared and was published in the issue of the newspaper of the day of 18 .

4. I have examined copies of the said *Gazette* and newspaper issued on each of the said days.

Sworn, &c.

48 V. c. 22, Form 13.

13.—Affidavit of posting up the Advertisement in the Court House.

LAND TITLES ACT.

In the matter of the application of *E. F.*

I, *A. B.* of, &c., make oath and say :

1. I did on the day of , post up in a conspicuous place in the Court House in the Town of , a true

copy of the advertisement hereto annexed marked D, the copy so posted up being a cutting from the ——— newspaper.

2. The said advertisement so posted up by me as aforesaid remained affixed up in the said place for the full period of one month, as I verily believe, (*state the reasons for this belief.*)

3. The said Court House is the Court House of the County in which the lands in question in this matter are situated.

Sworn, etc.

48 V. c. 22, Form 14.

14.—*Affidavit of Posting up Advertisement at the Nearest Post Office.*

LAND TITLES ACT.

In the matter of the application of *B. F.*

I, *A. B.* of, &c., make oath and say :

1. I did on the day of , post up in a conspicuous place in the post office, in the village of , a true copy of the advertisement hereto annexed marked D., the copy so posted up being a cutting from the newspaper.

2. The said advertisement remained where it was posted up by me continuously for the full period of one month, as I verily believe, (*state the reasons for this belief.*)

3. The post office in the village of is the post office nearest the land in question in this matter.

Sworn, &c.

48 V. c. 22, Form 15.

15.—*Caution under Section 68 before Registration.*

LAND TITLES ACT.

I, *A. B.*, of etc., have such an interest in the land hereinafter particularly described as entitles me to object to any disposition thereof being made without my consent, and I am entitled to notice of any application that may be made for the registration of such land. Form 11 made under Imp. Act 38 & 39 V. c. 87.

The following is a particular description of the said land, that is to say, (*here insert description of land to be affected by caution.*)

My address for service of notice is , in the of , in the county of my post office address is

Dated this day of , 18 .

(*Signature of the cautioner or his solicitor.*)

48 V. c. 22, Form 16.

16.—*Affidavit in support of Caution lodged before Registration under Section 68.*

LAND TITLES ACT.

I, *A. B.*, of etc., make oath and say as follows :

My interest in the land described in the above (*or annexed*) caution entitles me to object to any disposition of the said land being made without my consent, and the nature of such my interest is as follows : [*here state particulars of cautioner's interest.*] Form 12 made under Imp. Act 38 & 39 V. c. 87.

Sworn, etc.

48 V. c. 22, Form 17.

17.—*Notice to Cautioner when caution lodged before Registration.*

LAND TITLES ACT.

Form 13 made
under Imp.
Act 38 & 39
V. c. 87.

Take notice that *C. D.*, of, etc., has applied to be registered (or to have registered in his stead *E. F.*, of etc.) as owner of the land in the _____ of _____, in the county of *York*, affected by the Caution dated the _____ day of _____, 18____, lodged by you in the Office of Land Titles at *Toronto*; and if you intend to oppose such registration you are to attend either in person or by your solicitor or counsel for that purpose before me at the said office on the _____ day of _____ 18____ at _____ o'clock in the _____ noon.

Dated this _____ day of _____ 18____.

Signature of the Master of Titles and Official Stamp.

To

48 V. c. 22, Form 18.

18.—*Caution under Section 61 after Registration.*

LAND TITLES ACT.

Form 14 made
under Imp.
Act 38 & 39
V. c. 87.

I, *A. B.*, of, etc., being interested in the land registered in the name of *G. H.* as Parcel $\frac{1}{10}$ in the Register for the township of *York* (or in the charge registered as No. _____, in the name of *E. F.*, of, etc., as owner and being on Parcel $\frac{1}{10}$ Township of *York* [as the case may be],) require that no dealing with such land (or charge) be had on the part of the registered owner until notice has been served upon me.

My address for service of notice is lot _____, in the _____ concession, in the County of _____, and my Post Office address is _____.

Dated this _____ day of _____, 18____.

Signature of the cautioner or his solicitor.

48 V. c. 22, Form 19.

19.—*Affidavit in support of Caution lodged after Registration under Section 61.*

LAND TITLES ACT.

Form 15 made
under Imp.
Act 38 & 39
V. c. 87.

I, *A. B.*, of, etc., make oath and say, as follows:—

I am interested in the land (or charge), mentioned in the above (or annexed) caution and the particulars of my interest are as follows [here state particulars].

Sworn, &c.

48 V. c. 22, Form 20.

20.—*Notice to Cautioner where caution lodged after Registration.*

LAND TITLES ACT.

Form 16 made
under Imp.
Act 38 & 39
V. c. 87.

Take notice that the caution lodged by you in the Office of Land Titles at *Toronto*, on the _____ day of _____ 18____, requiring that no dealing with the land (or charge) registered etc., (according to the terms of the caution) should be had on the part of the registered owner until notice had been served

upon you, will cease to have any effect after the expiration of 14 days next ensuing the date at which this notice is served, unless an order to the contrary is made by the Master of Titles.

Dated the day of 18 .
(Signature of Master, and official stamp.)

To

48 V. c. 22, Form 21.

21.—*Application for Inhibiting Order under Section 64.*

LAND TITLES ACT.

C. D., of, etc., being interested in the land registered in the office of Form 17 made
Land Titles at _____, in the name of _____ as Parcel _____ in the _____ under Imp.
register for the township of _____, (or in the charge registered the _____ Act 38 & 39
_____ day of _____ 18 _____, in the name of _____ on the land, etc., V. c. 87.
as the case may be), hereby requests the Master to inhibit until further
order or entry (or otherwise, *as the case may be*), any dealing with the said
land (or charge).

The grounds of this application, and the evidence to be produced in support thereof, are stated or referred to in the affidavit of the said *C. D.* (or of *E. F.*, the solicitor of the said *C. D.*) filed herewith.

The address of the said *C. D.*, for service is *(here state address.)*

Dated, etc.

(Signature of C. D. or his solicitor.)

48 V. c. 22, Form 22.

Affidavit to be filed stating particulars of applicant's title.

22.—Application under Section 65 to Register Restriction.

LAND TITLES ACT.

A. B., the registered owner of the land registered in the office of Form 18 made Land Titles at as Parcel in the register for the township of , under Imp. requests the Master to make an entry in the register that no transfer shall be made of, or charge created on, such land, unless [here insert the terms of the restriction required to be entered].

Dated the day of 18 .
(Signature of owner.)

48 V. c. 22, Form 23.

23.—*Application under Section 66 to Withdraw or Modify Restriction.*

LAND TITLES ACT.

A. B., the registered owner of the land registered in the office of Land Titles at _____ as Parcel _____ in the register for the township of _____, under Imp. _____, *C. D.*, of, etc., and *E. F.*, of, etc., request that the restriction on transferring _____ Act 38 & 39 V. c. 87. on or charging the said parcel on the register, a note whereof was made _____ on the register on the _____ day of _____ 18 _____, may be with-

drawn, [or modified in the following manner, here state the nature of the modification required].

Dated the day of 18 .

*(Signatures of A. B., C. D., E. F., etc.)

Witness to all the signatures,

X. Y.,

48 V. c. 22, Form 24.

* The applicants must be all the persons interested in the restriction.

24.—Charge or Mortgage with bar of Dower.

LAND TITLES ACT.

Form 20 made
under Imp.
Act 38 & 39
V. c. 87.

I, A. B., the registered owner of the land entered in the office of Land Titles at , as Parcel in the register for , in consideration of (\$2,000) paid to me, charge such land with the payment to C. D., of, etc., on the day of 18 , of the principal sum of (\$2,000) with interest at the rate of \$ per cent. per annum, and with a power of sale to be exercised after default, and months' subsequent notice of the intention to sell, (or, as the case may be.) (Add any covenants which are agreed to and are not implied under the Act or otherwise.)

I, E. B., wife of the said A. B., hereby bar my dower in the said land.

This charge is made in pursuance of "The Act respecting Short Forms of Mortgages," where it is desired that the Covenants, etc., should operate under that Act.

Dated the day of 18 .

(Signatures of A. B. and E. B.)

Witness,

X. Y.

(No seal necessary.)

48 V. c. 22, Form 25.

NOTE.—If no interest is to be payable, or no power of sale given, substitute the words "without interest," or "without a power of sale," as the case may be.

25.—Transfer of Charge or Mortgage.

LAND TITLES ACT.

Form 21 made
under Imp.
Act 38 & 39
V. c. 87.

I, C. D., the registered owner under the Land Titles Act, of the charge dated the day of 18 , made by A. B. etc., and registered as number charging the land registered as Parcel 6, township of York (as the case may be), in consideration of (\$2,000) paid to me, transfer such charge to E. F., of, etc., as owner.

Dated the day of 18 .

(Signature of registered owner of charge.)

Witness,

X. Y.

(No seal necessary.)

48 V. c. 22, Form 26.

26.—*Form of Transfer of Charge or Mortgage by Endorsement.*

LAND TITLES ACT.

I, the within named *A. B.*, in consideration of \$ paid to me, do transfer to *C. D.*, of, etc., the within mortgage.

Dated, &c.,

(*Signature.*)

(No Seal necessary.)

Witness,

X. Y.

48 V. c. 22, Form 31.

27.—*Transfer of Freehold or Leasehold Land.*

LAND TITLES ACT.

I, *A. B.*, the registered owner of the land (or leasehold) registered in Form 23 made the office of Land Titles at , as Parcel 6, township of York (as under Imp. the case may be), in consideration of (\$*5,000*) paid to me, transfer such land Act 38 & 39 to *C. D.*, of, etc. V. c. 87.

Dated the day of 18 .

(*Signature of registered owner.*)

Witness,

(No seal necessary.)

X. Y.

48 V. c. 22, Form 28.

28.—*Transfer of Freehold or Leasehold Land in Parcels.*

LAND TITLES ACT.

I, *A. B.*, the registered owner of the freehold (or leasehold) land Form 24 made entered in the office of Land Titles at as Parcel in the under Imp. register for , and registered with an Absolute title [or with a Qualified title, or with a Possessory title, or, in the case of a leasehold, with a declaration that the lessor had an Absolute or Qualified title to grant the lease, or, without the declaration of the title of the lessor, as the case may be] in consideration of (\$*1,500*) paid to me, transfer to *C. D.*, of, etc., the part of the said lands described as follows: V. c. 87.

And I, *E. B.*, wife of the said *A. B.*, hereby bar my dower in the said land.

Witness,

(*Signatures.*)

X. Y.

(No Seal necessary.)

48 V. c. 22, Form 29.

29.—*Form of Transfer by Endorsement.*

LAND TITLES ACT.

I, the within named *A. B.*, in consideration of \$ paid to me by *C. D.* of, etc., transfer to *C. D.* of, etc., the within mentioned land. Form in schedule 25 & 26 V. c. 96 (Imp.).

Dated etc.,

(*Signature.*)

(No Seal necessary.)

Witness,

X. Y.

48 V. c. 22, Form 30.

30.—*Application to notify Cessation of Incumbrance or Lease existing on first Registration.*

(Section 25).

LAND TITLES ACT.

Form 28 made
under Imp.
Act 38 & 39
V. c. 87.

A. B., the registered owner of the land entered in the register for as Parcel hereby requests the Master to notify on the register the cessation of the incumbrance (*describing it*) (or the determination of the lease, *describing it*), entered upon the register, the same being discharged (or determined), as appears by the abstract of title marked *A.* (or as appears from the receipt endorsed upon the instrument of incumbrance, or otherwise, as the case may be), and the affidavit of lodged herewith.

Dated the day of 18 .

(Signature of *A. B.* or his solicitor.)

48 V. c. 22, Form 37.

31.—*Application for partial discharge of incumbrance created before first Registration of land.*

(Section 25).

To the Master of Titles :

I, *A. B.*, of etc., do certify that *C. D.*, has satisfied \$, part of the money mentioned in a certain mortgage for the sum of \$, made by the said *A. B.* to me (or according to the fact) which mortgage bears date the day of A. D. 18 , and was registered in the registry office for as number and that such mortgage has not been assigned (or, that such mortgage was assigned as follows, *stating the particulars of the assignment*, and that the said mortgage has not been further assigned).

And I further certify that I am the person entitled by law to receive the said money, and I hereby authorize the Master of Titles to discharge from the said mortgage the following lands (*describe lands to be released*) being portion of the lands included in the said mortgage, and being also part of the land registered in the office of Land Titles at Toronto as Parcel 46 in the Register for North West Toronto.

Dated the day of 188 .

Witness }
E. F. }

A. B.
No seal necessary.

LAND TITLES ACT.

I, *A. B.*, above named make oath and say that I am the owner of the above mentioned mortgage and the statements contained in the above certificate are true.

Sworn, etc.

A. B.

I, *C. D.*, the registered owner of the land above described, request the Master of Titles, to enter on the register a cessation of the above mentioned charge, so far as it affects the said land.

New.

C. D., (or *X. Y.*, Solicitor for *C. D.*)

32.—*Application to notify, under Section 35, Cessation of a Charge created after Registration of Land.*

LAND TITLES ACT.

To the Master of Titles :

I, A. B., of the *City of Toronto*, in the *County of York*, the registered owner of the charge made by C. D. to me, (or to E. F. and transferred to me), dated the 4th day of February, 188 , and registered as No. 460 on the land (or part of the land) registered in the office of Land Titles at Toronto as Parcel 46 in the Register for the township of *York*, hereby authorize the Master of Titles to notify on the register the cessation of the said charge. (*Where only part of the land covered by the charge is to be released, add as to the following land, describing the land to be released from the charge.*)

Dated the day of 18 .

Witness,

E. F.

A. B.

(No Seal necessary.)

I, C. D., the registered owner of the above mentioned land, request the Master of Titles to enter on the register the cessation of the charge above mentioned.

New.

C. D., or X. Y., Solicitor for C. D.

33.—*Application for Registration of Notice of Lease, or Agreement for Lease.*

(Sections 58 and 59.)

LAND TITLES ACT.

C. D., of, etc., being interested in the land entered in the register for Form 30 made as Parcel _____, of which *A. B.* is the registered owner, by _____ under Imp. Act 38 & 39 V. c. 87. reason of a lease [or agreement for a lease], the particulars of which are stated in the schedule annexed hereto, hereby requires the Master of Titles to enter a notice of the said lease [or agreement] upon the register, in the terms following, that is to say [*here state the terms of notice agreed upon, and which must be a concise notice merely*].

A. B., the registered owner of the above land, concurs in this application.

The address of the said *C. D.* for service is (*here give address.*)

Dated this day of 18 .

Witness to the signature of C. D.,

Witness to the signature of *A. B.*

X, Y.

} (*Signatures of C. D. and A. B.*)

SCHEDULE.

[Here insert shortly particulars of the Lease or Agreement for a Lease.]

48 V. c. 22, Form 38.

LAND TITLES ACT.

To the Master of Titles :

Take notice that *A.B.*, against whom a writ of execution was issued out of the High Court of Justice on the day of

18 . for the sum of \$ at the instance of C. D., is the registered owner of lands in the County of York, under the name A. G., being the name of the said A. B. before her marriage with G. B., her present husband (*or as the case may be.*)

New.

E. F.

Solicitor for C. D.

35.—*Form of Transfer of Land under Writ of Fieri Facias.*

LAND TITLES ACT.

I, , Sheriff of , in pursuance of a writ of fieri facias, tested the day of , and issued out of (*insert name of Court*) in an action wherein is the plaintiff, and the defendant, which said defendant is registered under the Land Titles Act, as the owner of the land hereinafter described, subject to the exceptions, qualifications, mortgages, and incumbrances (*or as the case may be*), notified hereunder, do hereby, in consideration of the sum of paid to me, as Sheriff aforesaid, by E. F., of, etc., (*insert addition*), transfer to the said E. F. all that piece of land (*here insert a sufficient description of the land, and refer to the number of the parcel under which the property is registered.*)

Dated the day of , 18 .

Signature of Sheriff.

(No Seal necessary.)

Exceptions, qualifications, mortgages and incumbrances referred to. (*State them.*)

48 V. c. 22, Form 32.

36.—*Application for Entry to be made in Register, negating Implied Covenants under Section 46.*

LAND TITLES ACT.

Form 25 made
under Imp.
Act 38 & 39
V. c. 87.

A. B., the registered owner of the land registered as Parcel in the register for and C. D., of, etc., the transferee named in the instrument of transfer dated the day of , 18 , and lodged herewith, request the Master of Titles to make an entry in the register to the effect following; that is to say [*here state the implied covenants to be negated*].

Dated the day of 18 .

(Signatures of transferor and transferee.)

Witness to both signatures,

X. Y.

48 V. c. 22, Form 33.

37.—*Transmission of Registered Ownership of Freehold Land.*

Application under Section 49.

LAND TITLES ACT.

Form 26 made
under Imp.
Act 38 & 39
V. c. 87.

A. B., the registered owner of the land entered in the register for as Parcel died on the day of , 18 , (*or otherwise, as the case may be*), C. D., of, etc., being interested in the said land, applies to be registered (*or to have E. F., of, etc., registered*), as owner of the said land.

The interest of the said *C. D.*, (or *E. F.*), and the existing rights of the several other persons interested in the said land, are stated in the affidavit* of the said *C. D.* and *G. H.*, of, etc., the solicitor of the said *C. D.*, filed herewith. The other evidence in support of this application is left herewith, and consists of (*here state of what evidence consists.*)

The address of said *C. D.*, is (*here give address.*)

Dated the day of 18 .

(*Signature of C. D. or his solicitor.*)

* Affidavit, etc., to be left with application.

48 V. c. 22, Form 35.

38.—*Transmission of Registered Ownership of Charge or Leasehold Land on Death of Owner.*

Application under Section 50.

LAND TITLES ACT.

A. B., the registered owner of the land, (or charge, dated the day of 18 , on the land, etc., as the case may be, No. on Form 27 made under Imp. Act 38 & 39 V. c. 87. the register), died on the day of 18 , (or otherwise, as the case may be, within section 50 of the Act), *C. D.*, of, etc., is entitled to the said land (or charge), and applies to be registered as the owner thereof accordingly.

The evidence in support of the above application consists of [*here state the evidence to be lodged herewith*].

The address of the said *C. D.*, is (*here give address.*)

Dated the day of 18 .

Signature of C. D., or his solicitor.

48 V. c. 22, Form 34.

39.—*Application under Section 60, as to dower or curtesy.*

LAND TITLES ACT.

C. D., of, etc., being entitled to an estate in dower (or by the curtesy) in the land registered as Parcel in the register for the under Imp. Act 38 & 39 V. c. 87. and of which land *A. B.* is the registered owner, applies that notice of such estate may be entered on the register.

The existing rights of the several persons interested in the said land are stated in the affidavit* of *C. D.* and *G. H.*, of, etc., the solicitor of the said *C. D.*, filed herewith, and the other evidence in support of this application is left herewith.

The address of the said *C. D.*, for service is (*here give address.*)

Dated this day of 18 .

(*Signature of C. D., or his solicitor.*)

* Affidavit, etc., to be left with application.

48 V. c. 22, Form 36.

40.—*Application under Section 86 to annex Conditions or Covenants to Land about to be brought under Land Titles Act.*

LAND TITLES ACT.

Form 33 made
under Imp.
Act 39 & 39
V. c. 87.

A. B., of, etc., being about by himself (or nominee *C. D.*) to be registered as owner of the land called or known as _____ in the _____ of _____ in the county of *York*, comprised in the application of the said *A. B.* for registration dated the _____ day of _____ 18____, requests the Master of Titles to register as annexed to the said land the conditions a printed copy of which is left herewith.

Dated this _____ day of _____ 18____.

Witness,

X. Y.

(Signature of *A. B.*)

48 V. c. 22, Form 40.

41.—*Application under Section 86 to Annex Conditions or Covenants to Registered Land.*

LAND TITLES ACT.

Form 32 made
under Imp.
Act 33 & 39
V. c. 87.

A. B., the registered owner of the land entered on the register for _____ as Parcel _____, and part of which is about to be transferred to *C. D.*, of, etc., pursuant to the instrument of transfer left herewith, hereby requests the Master of Titles to register, as annexed to the part of the land to be so transferred, the conditions (or covenants), a copy of which is left herewith.

The said *C. D.* consents to this application.

Dated this _____ day of _____ 18____.

Witness,

X. Y.

(Signatures of *A. B.* and *C. D.*)

48 V. c. 22, Form 39.

42.—*Affidavit attesting Execution of Instrument where bar of Dower, and identifying Parties.*

LAND TITLES ACT.

Form 37 made
under Imp.
Act 38 & 39
V. c. 87.

I, G. H., of, etc., a solicitor of the Supreme Court of Judicature, (or as the case may be), make oath and say :

I am well acquainted with *A. B.* and *C. B.*, named in the within document, and saw them sign the said document, and the signatures purporting to be their respective signatures at the foot of the said document are in their handwriting.

The said *A. B.* is, as I verily believe, the owner of the land within mentioned, and the said *C. B.* is reputed to be, and is, as I verily believe, his wife.

The said *A. B.* and *C. B.* are each of the age of 21 years or over, are each of sound mind and signed the said document voluntarily, at _____ in the county of _____ in the Province of Ontario (or as the case may be).

I am a subscribing witness to the said document.

Sworn, &c.

48 V. c. 22, Form 42.

NOTE.—When the affidavit is made by a clerk in a law office or other employee, this fact should be stated and the name of the employer given so as to facilitate identification. Where it is unlikely that the Master of Titles is acquainted with the witness the commissioner should add a certificate that the witness is well known to him and is of good repute.

43.—*Affidavit attesting Execution of Transfer of Land where Transferor unmarried.*

LAND TITLES ACT.

I, *G. H.*, of etc., solicitor of the Supreme Court of Judicature (*or as the case may be*) make oath and say.

I am well acquainted with *A. B.* named in the within document and saw him sign the said document, and the signature purporting to be his signature at the foot of the said document is in his handwriting.

The said *A. B.*, is as I verily believe the owner of the land within mentioned.

The said *A. B.*, is of the age of 21 years or over, he is reputed to be and as I believe is unmarried, he is of sound mind and signed the said document voluntarily at _____ in the county of _____ and Province of Ontario (*or as the case may be.*)

I am a subscribing witness to the said document.

Sworn, &c.

LAND TITLES ACT.

I, *A. B.*, within named make oath and say that I am an unmarried man.

Sworn, &c.

* 44.—*Form of a reference to the Court.*

In the High Court of Justice.

LAND TITLES ACT.

(*Date.*)

In the matter of the registration of transfer (*or as the case may be*) *A. B.* to *C. D.*

The Master of Titles under section _____ of the Land Titles Act, hereby humbly refers the following matter to the Court, to wit : (*Here state briefly the difficulty which has arisen.*)

The parties interested, so far as the Master of Titles knows or has been informed, are : (*Here give the names.*)

Signature of Master of Titles.

L. S.

48 V. c. 22, Form 43.

45.—*Form of Power of Attorney to make Transfers.*

LAND TITLES ACT.

I, *A. B.*, do appoint *C. D.* my attorney to transfer to *E. F.* absolutely (*or by way of mortgage, as the case may be*), all my lands as entered and described in the register for the township of _____ in the office of Land Titles at _____ as Parcel _____, and my estate therein. Form in schedule 25 & 26 V. c. 96 (Imp.).

Signature of A. B.

Witness (*as above.*)
X. Y.

No seal necessary.

(If such is the intention, add, This power shall not be revoked by the death of the said A. B., and the exercise of the same after his death shall be binding on his representatives).

48 V. c. 22, Form 44.

46.—*Form of Revocation of Power.*

LAND TITLES ACT.

I, A. B., of _____, hereby revoke the power of attorney, given by me to _____, dated the _____ day of _____ 18 .

In witness whereof, I have hereunto subscribed my name this _____ day of _____ 18 .

(Signature of A. B.)

Witness (as above.)

48 V. c. 22, Form 45.

47.—*Form of Surveyors' Certificate of Correctness of Plan.*

I hereby certify that this plan accurately shews the manner in which the land (or part of the land) entered in the office of Land Titles at Toronto as Parcel 104 in the Register for the township of York, being the west half of lot 10 in the 4th concession of said township, has been surveyed and sub-divided by me and that the said plan is prepared in accordance with the provisions of the Land Titles Act.

Dated _____ 18 . _____ A. B.
New.

Provincial Land Surveyor.

48.—*Form of Requisition to Accountant to receive money to credit of Assurance Fund.*

(Section 107.)

LAND TITLES ACT.

The Accountant of the Supreme Court will please place to the credit of the Assurance Fund, under the above Act, the enclosed sum of \$ _____ paid in respect of the registration, under the above Act, of lot 4 in the 1st Concession of the Township of (or as the case may be), with reference to which an application is now pending before the Local Master of Titles, at Port Arthur.

Dated _____ 18 .

A. B.,

Applicant,

(or Solicitor for Applicant.)

50 V. c. 15, Sched.

49.—*Form of Notice to Sheriff that newly patented Lands have become subject to The Land Titles Act.*

(Section 143.)

To the Sheriff of _____

Take notice that a Patent from the Crown of certain lands has been forwarded to me by the Crown Lands Department, in order that A. B., of _____

etc., the patentee therein named, should be entered, under the Land Titles Act, as owner thereof, and that such entry having been made in pursuance of the said Act, the said A. B., will, at any time after fourteen days from this date, be at liberty to transfer, or charge, the said land free from all executions in your hands affecting his lands, unless before the expiry of the said time I receive from you copies, certified under your hand, of any writs in your hands, affecting the lands of the said A. B., in accordance with section 53 of the Land Titles Act.

Dated the day of , 18 .
C. D.,
Local Master of Titles,
at (*name place*).

50 V. c. 16, Sched.

50.—*Form of Notice to the Treasurer of a Municipality of receipt of Patent for entry under Act.*

(Section 143.)

To the Treasurer of the Township of

Take notice that a Patent from the Crown for lot _____ in the Concession of _____, in the district of _____, has been forwarded to me by the Crown Lands Department in order that A. B., the patentee therein named, should be entered under the Land Titles Act as owner thereof,*and that such entry having been made, the said A. B. will, at any time after fourteen days from this date, be at liberty to transfer, or charge, the said lands free from all taxes, except those for the current year, unless before that time I receive from you a statement claiming that taxes for a previous year or years are owing upon the said land with full particulars of such claim.

Dated the _____ day of _____, 18____.

C. D.,
Local Master of Titles,
at (name place).

50 V. c. 16, Sched.

SECTION VIII.

PROPERTY IN WATERS AND STREAMS.

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- CHAP. 117.—FERRIES, p. 1162.
 “ 118.—MILLS AND MILL DAMS, p. 1165.
 “ 119.—WATER PRIVILEGES, p. 1169.
 “ 120.—RIVERS AND STREAMS, p. 1174.
 “ 121.—DRIVING SAW LOGS, p. 1181.
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CHAPTER 117.

An Act respecting Ferries.

LICENSES OF FERRY, ss. 1, 2.
 LIMITS OF FERRIES, s. 3.
 FERRIES BETWEEN TWO MUNICIPALITIES :
 Licenses to municipalities, ss. 4-6.
 Conditions of license, s. 7.
 Municipality may sub-let, s. 8.

By-laws by municipalities jointly licensed, s. 9.
 PERSONS MAY KEEP BOATS AT FERRIES, s. 10.
 PENALTIES FOR INTERFERENCE WITH LICENSED FERRYMAN, ss. 11-13.
 BY-LAWS BY MUNICIPALITIES REGULATING FERRIES, s. 14.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

License to be issued under the Great Seal.

1. Every grant or license of ferry shall be issued by the Lieutenant-Governor under the Great Seal. R. S. O. 1877, c. 112, s. 1.

Ferries to be leased by public competition and only for limited time.

2. Except as herein otherwise provided, no ferry in Ontario shall hereafter be leased by the Crown, nor shall the lease thereof be renewed, or any license by the Crown to act as a ferryman thereat be granted, except by public competition, and after notice of the time and place at which tenders will be received for the lease or license for such ferry, inserted at least four times in the course of four weeks in the *Ontario Gazette*, and in one or more of the newspapers published in the county in which the ferry is situate, and to parties giving such security as the Lieutenant-Governor in Council may require; nor shall any such ferry be leased or the license thereof be granted for a longer term than seven years at any one time. R. S. O. 1877, c. 112, s. 2.

3. In every case, except in the case of municipalities as hereinafter provided, where the limits to which the exclusive privilege of any ferry extends are not already defined, such exclusive privilege shall not be granted for a greater distance than one mile and a half on each side of the point at which the ferry is usually kept, but nothing herein contained shall invalidate or infringe upon any existing grant or right of ferry. R. S. O. 1877, c. 112, s. 3.

Limits of ferries.

4. In all cases where a ferry is required over any stream or other water within Ontario, and the two shores of the stream or other water are in different municipalities, such municipalities not being in the same county, the Lieutenant-Governor in Council may grant a license to either of such municipalities exclusively, or to both conjointly, as may be most conducive to the public interest. R. S. O. 1877, c. 112, s. 4.

License for ferry between two municipalities.

5. Where a ferry is required over any stream or other water within Ontario, and the two shores of the stream or other water are in different counties, the Lieutenant-Governor may, instead of granting the license to a minor municipality, grant the same to either of the counties or to both jointly, or to one of them jointly with a city or town, or in the manner provided by the preceding section as he may consider most conducive to the public interest, 45 V. c. 13, s. 1.

Municipalities to which licenses may be granted.

6. The license shall confer a right on the municipality or municipalities to establish a ferry from shore to shore on such stream or other water, and with such limit and extent as may appear advisable to the Lieutenant Governor in Council, and be expressed in the license. R. S. O. 1877, c. 112, s. 5.

Extent of right conferred, etc.

7. The license shall be upon condition that the craft to be used for the purpose of the ferry shall be propelled by steam, and be of such dimensions, and the engine thereof be of such power as the Lieutenant-Governor in Council may direct; and upon such further conditions as the Lieutenant-Governor in Council may think fit and express in the license. R. S. O. 1877, c. 112, s. 6.

Condition of license as to steam, etc.

8. The council of the municipality to which such license is issued, may pass by-laws, not contravening the terms of the license, declaring their determination to sub-let the said ferry, and may sub-let the same for the price, and upon such terms, and to such parties, and on such conditions, and at such rates of ferriage to be paid, as the council may think fit. R. S. O. 1877, c. 112, s. 7.

Municipalities may sub-let ferries.

9. Where a license is granted to two municipalities jointly, no by-law of the council of one of such municipalities with respect to the ferry shall have any force until a by-law has been passed in similar terms, as nearly as may be, by the other council. 45 V. c. 13, s. 2.

By-laws by municipalities to which license granted jointly.

Parties may keep boats for their own use.

10. Any person may keep at any such ferry a boat, vessel, or other craft, for his own private use, or may use, for the accommodation of himself or of his employer, his own or his employer's boat, vessel or craft, to cross the river or stream on which the ferry is situate; but such privilege shall in no wise be used to take, carry or convey any other persons or property for hire, gain, reward or profit, or hope thereof, or directly or indirectly to enable any of such other persons to evade the payment of tolls at the ferry. R. S. O. 1877, c. 112, s. 9.

Penalty for interfering with licensed ferryman.

11. If any person unlawfully interferes with the rights of a licensed ferryman, by taking, carrying, and conveying, at any such ferry, across the river or stream on which the same is situate, any person, cattle, carriage, or wares, in any boat, vessel, or other craft, for hire, gain, reward, profit, or hope thereof, or unlawfully does any other act or thing to lessen the tolls and profits of any lessee of the Crown of any such ferry, the offender, upon conviction thereof before a Justice of the Peace, shall forfeit and pay such sum of money not exceeding \$20, as the Justice may direct, which sum shall be paid to the party aggrieved, except where he has been examined in proof of the offence, in which case the money shall be applied and accounted for in the same manner as any penalty imposed for a breach of the peace. R. S. O. 1877, c. 112, s. 10.

Offender to be committed if penalty not paid.

12. In case the sum forfeited is not paid immediately after conviction, the convicting Justice may commit the offender to the Common Gaol of the county, there to be imprisoned for a term not exceeding two months, unless the forfeiture, and the costs, are sooner paid. R. S. O. 1877, c. 112, s. 11.

License evidence of title to the ferry.

13. On the trial of an offender against this Act, every license heretofore issued or issued under this Act, shall be *prima facie* evidence of title to the ferry. R. S. O. 1877, c. 112, s. 12.

Municipal Councils may pass by-laws regulating ferries in certain places.

Rev. Stat. c. 184.

14. The council of every county, city and town separated from the county, under *The Municipal Act*, may pass by-laws for regulating ferries between any two places in the municipality; and establishing the rates of ferriage to be taken thereon; but no such by-law shall have effect until assented to by the Lieutenant-Governor in Council; and until the council of the county, city or town separated as aforesaid pass a by-law regulating such ferries, and in the cases of ferries not between two places in the same municipality, the Lieutenant-Governor, by Order in Council, may from time to time regulate such ferries respectively, and establish the rates to be taken thereon subject to the provisions of this Act. R. S. O. 1877, c. 112, s. 13.

CHAPTER 118.

An Act respecting Mills and Mill-Dams.

TOLLS FOR GRINDING AND BOLTING RESTRICTED, s. 1.	MAINTENANCE OF DAMS, ETC., In the County of Huron, s. 8.
BAGS TO BE MARKED, s. 2.	On the River Moira, ss. 9-12.
CONSTRUCTION OF APRONS, SLIDES, WASTE-GATES, SLASH-BOARDS, BRACKETS, ss. 3-6.	On the River Otonabee, s. 13.
Penalty for not constructing, etc., s. 7.	PENALTIES SUSPENDED WHEN DAMS, ETC., INJURED BY FLOODS, s. 14.
	NO DAMAGES FOR OVERFLOW OF ADJACENT LANDS IN CERTAIN CASES, ss. 15, 16.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. No owner or occupier of a mill, nor any person employed by him, shall demand or take as toll a greater proportion of any grain brought to him to be ground and bolted than one-twelfth part thereof, for grinding and bolting the same, under a penalty of \$40 for every such offence; one moiety thereof to be paid to Her Majesty, for the public uses of the Province, and the other moiety to any person who sues for the same in any Court of Record. R. S. O. 1877, c. 113, s. 1.

No greater proportion to be taken for grinding and bolting grain than one twelfth.

2. No owner or occupier of a mill shall be bound to receive or be chargeable with the loss of any bag of grain or flour, unless the bag is marked with the initial letters of the Christian name and surname of the owner of the grain, or with some mark distinguishing the bag, which mark of distinction shall be previously communicated and made known to the owner or occupier of the mill, or his servant usually attending the same. R. S. O. 1877, c. 113, s. 2.

Bags must be marked.

3. Subject to any jurisdiction in this behalf of the Dominion of Canada and to any Acts of the Parliament of Canada in the exercise of such jurisdiction, in case a mill-dam is legally erected on any stream, down which lumber is usually brought, or in which salmon or pickerel abound, the owner or occupier of the dam shall construct and maintain a good and sufficient apron thereto, not less than eighteen feet wide by an inclined plane of twenty-four feet eight inches to a perpendicular of six feet, and so in

Owners or occupiers of mills to construct aprons to their dams.

Penalty and its appropriation.

proportion to the height where the width of the stream will admit of it; and in case the stream or dam is less than fifteen feet wide, the whole dam shall be aproned in like manner with the same inclined plane; and every owner or occupant who neglects to construct or maintain such apron, shall for every offence, forfeit and pay yearly the sum of \$100; one moiety thereof to Her Majesty for the public uses of the Province, and the other moiety to any person who may sue for the same in any Court of Record. R. S. O. 1877, c. 113, s. 3.

Apron or slide to admit passing of logs, etc.

4. Every owner or occupier of a mill-dam at which an apron or slide is required to be constructed as aforesaid shall, if necessary, alter, or if not already built, shall construct such apron or slide so as to afford depth of water sufficient to admit of the passage over such apron or slide of such saw-logs, lumber and timber as are usually floated down the streams or rivers whereon such dams are erected; but an owner or occupier of any such dam may construct a waste-gate or put up brackets and slash-boards in, upon and across the apron, for the purposes of preventing unnecessary waste of water therefrom, and may keep the same closed when no person is ready and requires to pass or float any craft, lumber or saw-logs over such apron or slide. R. S. O. 1877, c. 113, s. 4.

Waste-gates, slash-boards.

Owners not obliged to remove brackets until rafts, etc., ready to pass.

5. The owner or occupier of such dam shall not be bound to remove the brackets or slash-boards across the apron thereof until the raft, craft, lumber or saw-logs, required to be passed, are ready to pass and have for that purpose gained the main channel of the stream. R. S. O. 1877, c. 113, s. 5.

When aprons and slides mentioned in ss. 3 and 4, not required in small streams.

6. No person shall be required to build such aprons or slides as are mentioned in sections 3 and 4, on small streams, unless required for the purpose of rafting or floating down lumber and saw-logs as aforesaid. R. S. O. 1877, c. 113, s. 6.

PENALTIES.

Penalty on owner of dam refusing to comply with the requirements of this Act.

How enforced.

7. Every owner or occupier of any dam mentioned in section 4 of this Act who (if not already made and constructed) neglects or refuses to make and construct and keep in repair an apron of the description therein mentioned shall pay a penalty of \$2 per day for every day of such neglect, and such penalty shall be recoverable before any two Justices of the Peace for the county in which the offence has been committed, on the oath of two credible witnesses, and if not paid, shall be levied by distress and sale of the goods and chattels of the offender, by a warrant under the hand and seal of the Justices, or one of them, and shall be paid to the treasurer of the municipal corporation having jurisdiction in the locality where the dam is erected, for the general uses of the municipality. R. S. O. 1877, c. 113, s. 7.

MILL DAMS IN SPECIFIED CASES.

1. *In the County of Huron.*

8. Subject to any jurisdiction of the Dominion of Canada in this behalf, and to any Acts of the Parliament of Canada in the exercise of such jurisdiction, the owner or occupier of every dam or weir erected on any river or stream in any of the townships of Williams, McGillivray, Stephen, Hay, Stanley, Goderich, Colborne, Hullet, McKillop, Tuckersmith, Hibbert, Logan, Fullarton, Usborne, Biddulph, Blanchard, Downie including the Gore of Ellice, North Easthope, and South Easthope, or any other tracts of land which on the 29th day of March, 1845, constituted the then District of Huron, shall, if the same has not been already done, construct and maintain, and, if constructed, shall maintain and keep in repair, a good and sufficient apron to such dam or weir, at least twenty-eight feet wide, if the dam or weir is of greater width, and if not, then of the same width as the dam or weir, and at least eight feet in length for every foot rise of such dam or weir, under a penalty of \$1 for each day during which the requirements of this section are not complied with; and such penalty shall be recoverable before any two Justices of the Peace for the county in which the offence has been committed, on the oath of one credible witness; and if not paid, may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justices or either of them; one moiety of which penalty shall belong to Her Majesty, for the public uses of the Province, and the other moiety to the prosecutor. R. S. O. 1877, c. 113, s. 8.

Dams and
Weirs in the
County of
Huron.

2. *On the River Moira.*

9. Subject as aforesaid, the owner or occupier of any dam on the River Moira or its tributaries, in the county of Hastings, on which lumber is floated to market, shall construct and maintain, and if constructed, shall maintain and keep in repair a good and sufficient apron to such dam, at least thirty-two feet in width, if the dam is of that or of greater width, and if not, then of the width of the dam, and at least five feet in length for every foot rise of such dam; and the height of the dam at the place where the apron is constructed, shall be at least two feet lower than the top of the said dam at any other place (unless it occupies the whole width thereof as aforesaid); but if the rise of the dam is less than four feet, the height of the dam at the place where the apron is constructed shall not exceed one-half its height at any other place. R. S. O. 1877, c. 113, s. 9.

On the river
Moira.

10. Every such apron shall be constructed on the main channel of the stream, and its highest part shall be one foot below the level of the dam at the place where it joins the same. Penalty for
contravention.

under a penalty of twenty-five cents for each day the requirement of this and the next preceding section are not complied with. R. S. O. 1877, c. 113, s. 10.

How re-
covered and
enforced.

11. The said penalty, on the complaint of any person engaged in the lumber trade upon the said river or any tributary thereof, may be recovered before any two Justices of the Peace for the county in which the offence has been committed, upon the oath of one credible witness other than the informer, one half of which penalty shall belong to Her Majesty, for the public uses of the Province, and the other moiety to the prosecutor; and if upon conviction such penalty be not forthwith paid, it shall, by warrant under the hand and seal of such Justices, or of one of them, be levied by distress and sale of the goods of the offender. R. S. O. 1877, c. 113, s. 11.

Owner not
obliged to
alter the apron
if constructed
before 23rd
March, 1848,
until renewed.

12. Section 9 of this Act shall not oblige the owner or occupier of any dam on the River Moira to alter the apron thereof, if constructed before the 23rd day of March, 1848, until the renewal of such apron. R. S. O. 1877, c. 113, s. 12.

3. *On the River Otonabee.*

Special provi-
sions with re-
gard to the
river Otona-
bee.

13. No apron to any mill-dam on the River Otonabee shall be less than thirty-two feet wide by an inclined plane of five feet to a perpendicular of one foot, and so in proportion to the height of the dam; and side pieces of at least one foot in height shall be fixed on the outside of every such apron, to confine the water and prevent the timber from falling off at the sides. R. S. O. 1877, c. 113, s. 13.

PENALTIES SUSPENDED WHEN DAMS INJURED BY FLOODS.

If aprons in-
jured by
floods, etc.,
penalties sus-
pended for a
reasonable
time.

14. In case an apron is carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the dam to which the same was attached shall not be liable to such penalty as aforesaid if the apron is repaired or reconstructed in conformity with this Act, as soon as the state of the stream safely permits. R. S. O. 1877, c. 113, s. 14.

NO DAMAGES TO BE GIVEN FOR MILL DAMS OVERFLOWING ADJACENT LANDS IN CERTAIN CASES.

When grantee
of Crown not
to recover
damages for
overflow of his
lands.

15. In case, in an action brought against the proprietor or occupier of a mill, for the overflowing of or injury to land, caused by the erection or continuation of a dam for the purposes of the mill, it appears that the overflowing or other injury was caused by the erection or continuation of a dam which was built before the purchase of the land, by the grantee of the Crown and before the grant thereof to him, and that the purchaser obtained a reduction in the price of the land, or was otherwise indemnified in consequence of its being so over-

flowed or otherwise injured, then on the trial of the action such facts may be taken into consideration, and, if it appears just and equitable, a verdict may in consequence thereof, be found for the defendant. R. S. O. 1877, c. 113, s. 15.

16. In such action the defendant may plead not guilty by statute, and may thereupon avail himself of the matters of defence herein given. R. S. O. 1877, c. 113, s. 16.

Defendant may plead not guilty, etc.

CHAPTER 119.

An Act respecting Water Privileges.

RIGHT OF ENTRY UPON LANDS TO IMPROVE WATER OR MILL PRIVILEGES, s. 1.
OCCUPIED MILL PRIVILEGE, WATER POWER AND MILL LAWFULLY EXISTING, DEFINED, s. 2.
CASE OF MILL PRIVILEGE NOT IN ACTUAL USE, s. 3.
APPLICATION TO COUNTY JUDGE TO

OBTAIN POWERS UNDER THIS ACT, ss., 4-10.
REGISTRATION OF JUDGE'S ORDER, s. 11.
POWERS OF JUDGE, ss. 12-14.
APPEALS FROM JUDGE'S ORDER, ss. 15-18.
MISCELLANEOUS, ss. 19-22.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Any person desiring to use or improve any water privilege, of which, or a part of which he is at such time the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes, by erecting a dam and creating a pond of water, increasing the head of water in any existing pond, or extending the area thereof, diverting the waters of any stream, pond or lake into any other channel or channels, constructing any raceway, or other erection or work which he may require in connection with the improvement and use of the said privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection, or work, or any part thereof, shall have the right to enter upon any lands which he may deem necessary to be examined, and to make an examination and survey of the same, doing no unnecessary damage in performing such work, and paying the actual damage done, if any; and if, upon an application to the County Judge as hereinafter provided, he obtains authority, he shall be at liberty to take, acquire, hold and use such portions of the

Right of persons to enter and acquire lands for improving water privileges.

said lands so examined as he may deem expedient for the completion, improvement or maintenance of the water privilege and works in connection with the same. R. S. O. 1877, c. 114, s. 1.

Meaning of occupied mill privilege, etc.

2. An occupied mill privilege or water power or mill lawfully existing within the meaning of this Act, shall mean a mill privilege, water power, or mill which has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are *bona fide* in course of construction. R. S. O. 1877, c. 114, s. 2.

Evidence on application to Judge against owner of privilege not in actual use, as to user and intent.

3.—(1) The owners of any privilege, water power or mill having been, but not being, in actual use for such purposes, at the time of an application to the County Judge under this Act, and claiming to be the owners of an occupied mill privilege or water power, or mill lawfully existing, shall upon the application of any person who desires to obtain and exercise the powers mentioned in this Act, produce before the County Judge, satisfactory evidence that the same is held *bona fide* as such privilege, water power or mill, and is intended to be used again for mechanical, manufacturing, milling or hydraulic purposes; but in the event of such evidence not being produced or not being satisfactory, such original privilege, water power or mill shall not be deemed to be an occupied mill privilege, water power, or mill lawfully existing within the meaning of this Act.

(2) The County Judge in the event of finding that the same is so held *bona fide*, may fix and limit a time within which the necessary works or the actual use of the privilege, water power or mill, for the purposes for which the same are claimed shall be constructed, and the privilege, water power or mill actually used. R. S. O. 1877, c. 114, s. 3.

Proceedings for obtaining the powers given by this Act

4. Any person who desires to obtain or exercise the powers hereinbefore mentioned, or any of them, shall proceed as follows :—

Firstly.—He shall cause surveys and levels to be taken and made of the lands sought to be taken or acquired, held, used or otherwise affected, together with a map or plan thereof :

Secondly.—He shall cause to be prepared a statement giving,

1. A general description of the said lands ;
2. The names of the owners and occupiers thereof, so far as they can be ascertained ; and
3. Everything necessary for the right understanding of the map or plan, including a Registrar's certified abstract of the titles to all the lands, to be affected by the application :

Thirdly.—He shall cause to be filed in the office of the Clerk of the County Court of the county wherein the lands or any part thereof are situate the said map or plan and the said statement, and shall then apply to the Judge of the County Court for an order to empower him to exercise the said powers or such of them as he may desire. R. S. O. 1877, c. 114, s. 4.

5. In addition to any other notice which the Judge directs to be given upon an application under this Act, public notice of the application stating the time when the same is to be heard, shall be inserted in a newspaper published in the county or one of the counties where the proposed works are to be erected, or any of the lands affected are situate, for such period as the Judge may direct. R. S. O. 1877, c. 114, s. 5. Public notice of application.

6. The practice upon and in reference to the application shall be the same as if the application were for an order for the partition of real estate under the provisions of any of the Acts in reference to such partition. R. S. O. 1877, c. 114, s. 6. Practice to be the same as in partition of real estate. See Rev. Stat. c. 104.

7. If the Judge is of opinion that the allowance of the application will conduce to the public good and is proper and just under all the circumstances of the case, he shall make an order describing the lands affected thereby and empowering such person to exercise the said powers or such of them as he may deem expedient, for such time and on such terms and conditions as he may determine. R. S. O. 1877, c. 114, s. 7. If the application is for the public good, Judge to grant an order.

8. In and by the order the Judge shall state the height to which the dam may be built, and he shall assess the sum to be paid as the value of the land to be taken or used, and of the damages, if any, which ought to be paid as compensation by such person for any injury thereby done, and shall make such order as to costs as to him seems just, and such costs shall be the same as in ordinary proceedings in the County Court, and shall be taxed by the clerk thereof. R. S. O. 1877, c. 114, s. 8. Nature of the Judge's order.

9. The money, or sum assessed, together with the costs awarded, if any, shall be paid to the person entitled thereto, according to the award, or paid into the High Court as the Judge may direct, before the powers aforesaid, or any of them are exercised, and within sixty days after the said award is made; and if the same are not so paid within the said time, the order may be proceeded upon as if it had been made in any action or cause, in the County Court, or in the High Court; or the order may, at the option of the parties entitled to receive the sums awarded, or of any of them, be set aside and vacated. R. S. O. 1877, c. 114, s. 9. Payment of amount awarded. Setting aside order.

10. Upon the payment of the sum awarded and costs, if any, as aforesaid, the person obtaining the order shall be en- Conveyance of the lands.

titled to a conveyance of the lands or the rights (as the case may be,) mentioned in the order; and in case of dispute, the conveyance shall be settled by the Judge, and such person shall be further entitled to have and exercise such of the privileges mentioned in section 1 of this Act as he is authorized in and by the order to exercise. R. S. O. 1877, c. 114, s. 10.

Registration
of Judge's
order.

11. The order of the Judge may, upon the mere production thereof, be entered and registered in the registry office of the registry division in which the lands or any of them are situate; and shall operate and may be pleaded as an effectual bar to any action, or proceeding brought in any Court in this Province in respect of the said lands or any part thereof. R. S. O. 1877, c. 114, s. 11.

Effect of
order.

Attendance of
witnesses.

12. The Judge shall have the same and like powers as to compelling the attendance and examination of witnesses, the production of documents and otherwise as are possessed by him, or by any County Court, in any cause, action, matter or other proceeding carried on or pending in the County Court. R. S. O. 1877, c. 114, s. 12.

Judge's fees.

13. The Judge shall be entitled for his services to have and receive to his own use the like fees as are allowed to professional arbitrators. R. S. O. 1877, c. 114, s. 13.

The case of
two claiming
the powers
under this
Act.

14. In case two or more persons claim to exercise the powers conferred by this Act, in respect of the same water privilege or any part thereof, the County Judge may impose such terms as he may deem just, and limit a time within which the person whose application he allows shall construct the necessary works, and actually use such water privilege. R. S. O. 1877, c. 114, s. 14.

Appeal.

15. Subject to the provisions hereinafter contained, there shall be an appeal from the final order or judgment of the County Judge on any application under this Act, to the Court of Appeal, or to one of the Judges of the said Court; but an appeal to a single Judge may in his discretion be referred (on a special case to be settled) to the Court, and on such terms in the mean time as he may think necessary and fit; the decision of the Judge upon a question of fact or other question shall be open to revision by the Court or Judge to which the appeal is had. R. S. O. 1877, c. 114, s. 15.

Leave to ap-
peal and
practice.

16. The appeal shall not be permitted without leave of one of the Judges of the said Court, and the application for leave shall be made within ten days from the day on which the order or judgment appealed from is made or rendered; and the Judge to whom the application is made shall determine the time within which the appeal, if permitted, shall be set down to be heard, the security to be given by the appellants and the persons upon whom notice of the appeal shall be served and all

such other matters as he may deem necessary for the most speedy and least expensive determination of the matter of the appeal. R. S. O. 1877, c. 114, s. 16.

17. If the appeal is not set down to be heard within the time limited for that purpose, or if the other conditions imposed are not complied with, the appeal shall be deemed to have been abandoned. R. S. O. 1877, c. 114, s. 17.

Non-compliance with conditions of appeal an abandonment.

18. The costs of the appeal shall be in the discretion of the Court or Judge to which the appeal is had: and the practice and proceedings upon the appeal shall, except so far as is herein or may be by the Judge to whom the application for leave is made, otherwise provided, be similar to the practice and proceedings upon appeals from County Courts. R. S. O. 1877, c. 114, s. 18.

Costs and practice on appeal.

19. No pond created or partly created under the authority of this Act shall exceed in extent twenty acres, unless the Judge of the County Court having jurisdiction, as hereinafter mentioned, by an order to be made by him orders and directs otherwise; and in and by the order the Judge shall fix the extent of the pond. R. S. O. 1877, c. 114, s. 19.

Ponds created not to exceed twenty acres, unless ordered of County Judge.

20. No occupied mill privilege or water power shall be in any manner interfered with or encroached upon under the authority of this Act without the consent of the owner thereof. R. S. O. 1877, c. 114, s. 20.

Occupied mill privilege not to be interfered with.

21. No such dam may be erected, or other powers exercised to the injury of any mill lawfully existing, either above or below it on the stream, nor shall the privilege of the owner be affected by the erection thereof. R. S. O. 1877, c. 114, s. 21.

Existing mill not to be injured.

22. This Act shall not authorize the navigation of any stream or river to be interfered with, and shall not authorize any stream of water to be so obstructed by the construction of such works as aforesaid as to prevent timber or logs floating down the stream during high water. R. S. O. 1877, c. 114, s. 22.

Obstructing navigation and the floating of timber.

CHAPTER 120.

An Act for protecting the Public interest in Rivers,
Streams and Creeks.

RIGHT TO FLOAT TIMBER DOWN STREAMS, ss. 1, 11, 12.	TOLLS FOR USE OF IMPROVEMENTS, s. 11.
INJURING DAMS, s. 2.	Judge or Magistrate to fix tolls, s. 13.
CONDITIONS AS TO FLOATING TIMBER DOWN CERTAIN RIVERS, s. 3.	Powers of Judge, s. 14.
PENALTIES :	Appeal, ss. 15-17.
Obstructing rivers, s. 4.	Lien for tolls, s. 19.
How recovered, s. 8.	APPLICATION OF ACT, ss. 18, 20.
How appropriated, s. 9.	RIGHT TO GO ON RIVER BANKS, s. 21.
ACT NOT TO APPLY IN CERTAIN CASES, ss. 5-7.	PERSON ENTITLED TO TOLLS MAY MAKE RULES REGULATING TRANSMIS- SION OF TIMBER, s. 22.
ASSESSED DAMAGES FOR INJURY TO PRIVATE PROPERTY — HOW AP- PLIED, s. 10.	RIGHT TO INJUNCTION RESTRICTED, ss. 23, 24.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

All persons
entitled to use
rivers for
floating down
timber and
saw-logs

1. All persons shall, subject to the provisions in this Act contained, have, and are hereby declared always to have had, during the spring, summer and autumn freshets, the right to, and may float and transmit saw-logs and all other timber of every kind, and all rafts and crafts, down all rivers, creeks and streams; and no person shall by felling trees or placing any other obstruction in or across any such river, creek or stream, prevent the passage thereof; and in case it may be necessary to remove any obstruction from such river, creek or stream, or construct any apron, dam, slide, gate-lock, boom, or other work therein or thereon, necessary to facilitate the floating and transmitting such saw-logs and other timber, rafts or crafts, down the same, then it shall be lawful for the person requiring so to float and transmit such saw-logs and other timber, rafts and crafts, and it is hereby declared always to have been lawful to remove such obstruction, and to construct such apron, dam, slide, gate-lock, boom or other work necessary for the purposes aforesaid, doing no unnecessary damage to the said river, creek or stream, or to the banks thereof. R. S. O. 1877, c. 115, s. 1; 47 V. c. 17, s. 1.

2. In case there is a convenient apron, slide, gate, lock, or opening in any such dam or other structure made for the passage of saw logs and other timber, rafts and crafts authorized to be floated down such stream as aforesaid, no person using any such stream in manner and for the purposes aforesaid, shall alter, injure or destroy any such dam or other useful erection in or upon the bed of or across the stream, or do any unnecessary damage thereto or on the banks thereof. R. S. O. 1877, c. 115, s. 2.

Persons using streams not to injure dams, etc.

3. Except in the case of round or squared timber, or of trees masts, staves, deals, boards or other sawed or manufactured lumber or saw-logs, prepared for transportation to a market, every person and every employer of such person, who cuts and fells any trees into the Grand River, the River Thames, River Nith, River Speed, Otter Creek, the River Credit, the River Otonabee from Sturgeon Lake to Rice Lake, the River Scugog, the River Trent from Rice Lake to the Bay of Quinte, Crow River, the Rivers Gananoque, Rideau, Petite Nation, Tay, Mississippi, Bonnechere, Madawaska and Goodwood in Ontario, or upon such parts of the banks thereof as are usually overflowed in the autumn or spring of the year by the rising of the water of the said rivers or creek, and who does not lop off the branches of such trees and cut up the trunks thereof into lengths of not more than eighteen feet, before they are allowed to be floated or cast into the said rivers or streams shall for every such offence forfeit and pay a penalty not exceeding ten dollars. R. S. O. 1877, c. 115, s. 3.

Conditions or which timber may be cut on the banks of certain rivers and floated thereon

4. Subject to any jurisdiction of the Dominion of Canada in this behalf and to any Acts passed in the exercise of such jurisdiction—in case a person throws, or in case an owner or occupier of a mill suffers or permits to be thrown, into any river, rivulet or water-course, excepting those hereinafter mentioned, slabs, bark, waste stuff or other refuse of any saw-mill (except saw-dust), or stumps, roots, shrubs, tan-bark or waste wood, or leached ashes; or in case a person fells, or causes to be felled, in or across such river, rivulet or water-course, timber or growing or standing trees, and allows the same to remain in or across such river, rivulet or water-course, he shall incur a penalty not exceeding \$20 and not less than twenty cents for each day during which the obstruction remains in, over, or across such river, rivulet or water-course, over and above all damages arising therefrom. R. S. O. 1877, c. 115, s. 4.

Penalty on persons obstructing rivers and rivulets.

5. This Act shall not apply to a dam, weir or bridge erected in or over such river, rivulet or water-course, or to any thing done *bona fide* in or for erecting the same, or to any tree cut down or felled across such river, rivulet or water-course, for the purpose of being used as a bridge from one side

Act not to extend to dams, weirs or trees used as bridges.

thereof to the other; provided such tree does not impede the flow of water or the passing of rafts. R. S. O. 1877, c. 115, s. 5.

Exception as
to certain
rivers.

6. This Act shall not extend to the River St. Lawrence, nor to the River Ottawa, nor to any river, or rivulet wherein salmon, pickerel, black bass or perch, do not abound. R. S. O. 1877, c. 115, s. 6.

As to obstruc-
tions not wilful.

7. No such obstruction happening without the wilful default of any party, or in the *bona fide* exercise of his rights, shall subject him to any fine or forfeiture unless upon default to remove the obstruction after notice and reasonable time afforded for that purpose. R. S. O. 1877, c. 115, s. 7.

How fines to
be recovered.

Rev.Stat.c.74.

8. All fines, penalties, forfeitures and damages under this Act, when not together exceeding \$20, may respectively, upon the oath of one credible witness, be recovered with costs, in a summary way in the manner provided by *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions*, before any one or more of the Justices of the Peace for the county in which the offence has been committed, and unless the conviction is appealed from, if the fine or penalty and damages (as the case may be), together with the costs, are not paid at the time stated in the conviction, the convicting Justice or Justices, or one of them, when more than one, shall issue his or their warrant of distress to levy the same out of the goods and chattels of the offender; and in case there are not sufficient goods and chattels found to satisfy the same, and in case the offender does not otherwise satisfy the amount within three days after conviction, then such Justice or Justices (as the case may be) shall by warrant under hand and seal commit the offender to the common gaol of the county in which he has been convicted, for the term of ten days in case the conviction is under section 3 of this Act, or thirty days in case the conviction is under section 4 of this Act, unless the fine, penalty or forfeiture and damages (as the case may be), and costs are sooner paid. R. S. O. 1877, c. 115, s. 8.

Appropriation
of penalties.

9. Of pecuniary penalties levied under this Act, one-third shall go to the informer, and the other two-thirds shall be paid to the treasurer of the municipality in which the offence was committed, and shall be expended in improving the public highways therein. R. S. O. 1877, c. 115, s. 9.

Assessed dam-
ages how to
be applied.

10. In cases of damages to private property arising out of a violation of this Act, such damages may, at the request of the party aggrieved, be assessed by the convicting Justice or Justices, and included in the conviction, when such damages, together with the fine or penalty imposed, do not together exceed \$20; and in case damages are assessed the same shall be

paid to the party aggrieved, except in cases where he has been examined in proof of the offence, in which case the same shall be applied to the improvement of the public highways in the municipality as above provided. R. S. O. 1877, c. 115, s. 10.

11. In case any person shall construct in or upon such river, creek or stream, any apron, dam, slide, gate, lock, boom or other work necessary to facilitate the floating or transmission of saw-logs or other timber, rafts or crafts down such river, creek or stream, which was not navigable or floatable before the improvements were made, or shall blast rocks or remove shoals or other impediments, or otherwise improve the floatability of the river, creek or stream, such person shall not have the exclusive right to the use of the river, creek, or stream, or to the constructions and improvements; but all persons shall have during the spring, summer and autumn freshets, the right to float and transmit saw-logs and other timber, rafts and crafts, down such rivers, creeks or streams, and through and over the constructions and improvements, doing no unnecessary damage to the constructions and improvements, or to the banks of the said rivers, creeks or streams, subject to the payment to the person who has made the constructions and improvements, of reasonable tolls. 47 V. c. 17, s. 2.

Right to use river on which improvements have been made for the purpose of floating down timber.

12. Sections 1 and 11 of this Act and all the rights therein given, and all the provisions therein made and contained, shall extend and apply to all rivers, creeks and streams mentioned in section 1 of this Act, and to all constructions and improvements made therein or thereon, whether the bed of the river, creek or stream, or the land through which the same runs, has been granted by the Crown or not, and if granted by the Crown shall be binding upon the grantees, their heirs, executors, administrators and assigns. 47 V. c. 17, s. 3.

Secs. 1 and 11 to apply whether land patented or not.

13. The Judge of the County Court of the county or Stipendiary Magistrate of the judicial district, as the case may be, in which the constructions and improvements are situated shall, upon application of the owner thereof, or of any person who may desire to use the same, fix the amounts which any person entitled to tolls under this Act shall be at liberty to charge, and may from time to time vary such amounts; and the Judge or Stipendiary Magistrate in fixing the tolls shall have regard to and take into consideration the original cost of the construction and improvements, the amount required to maintain the same and to cover interest upon the original cost, as well as such other matters as under all the circumstances may seem just and equitable. 47 V. c. 17, s. 4.

Judge or County Court or stipendiary magistrate may fix tolls.

14. The Judge or Stipendiary Magistrate shall have the same and like powers as to compelling the attendance and examination of witnesses, the production of documents and other-

Compelling attendance of witnesses.

wise, as are possessed by him, or by a County Court, in any cause, action, matter, or other proceeding, carried on or pending in a County Court. 47 V. c. 17, s. 5.

Appeal.

15. In case a party interested is dissatisfied with the order or judgment of the Judge or Stipendiary Magistrate, he may within fifteen days from the date thereof appeal from the order or judgment to a Judge of the Court of Appeal, and the Judge to whom the appeal is made shall determine the time within which the appeal shall be set down to be heard, the security to be given by the appellant, and the persons upon whom notice of the appeal shall be served, the manner of service, and all such other matters as he may deem necessary for the most speedy and least expensive determination of the matter of the appeal. 47 V. c. 17, s. 6.

When appeal to be deemed abandoned.

16. If the appeal is not set down to be heard within the time limited for that purpose, or if the other conditions imposed are not complied with, the appeal shall be deemed to have been abandoned. 47 V. c. 17, s. 7.

Costs of appeal and practice and procedure.

17. The costs of the appeal shall be in the discretion of the Judge to whom the appeal is had; and the practice and proceedings upon the appeal shall, except so far as may be by the Judge to whom the appeal is made otherwise provided, be similar to the practice and proceedings upon appeals from County Courts. 47 V. c. 17, s. 8.

Provisions of Act to apply to all constructions now or hereafter made.

18. The foregoing provisions of this Act shall apply to all such constructions and improvements as may hitherto have been made, as well as to such as may be in course of construction, or shall hereafter be constructed. 47 V. c. 17, s. 9.

Persons making improvements to have lien for tolls.

19. Every person entitled to tolls under this Act shall have a lien upon the saw-logs or other timber passing through or over such constructions or improvements for the amount of the tolls, such lien to rank next after the lien (if any) which the Crown has for dues in respect to such logs or timber, and if the tolls are not paid, any Justice of the Peace having jurisdiction within or adjoining the locality in which the constructions or improvements are, shall, upon the oath of the owner of the constructions or improvements, or upon the oath of his agent, that the just tolls have not been paid, issue a warrant for the seizure of such logs or timber, or so much thereof as will be sufficient to satisfy the tolls, which warrant shall be directed to any constable, or any person sworn in as a special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date thereof, to sell subject to the lien of the Crown (if any), for dues, the said logs or timber, and out of the proceeds to pay such tolls, together with the cost of the warrant and sale, rendering the

surplus on demand to the owner: Provided always, that the authority to issue such warrant by such Justice of the Peace shall not exist after the expiration of one month from the time of the passage of the logs or timber through or over any of such constructions or improvements. 47 V. c. 17, s. 10.

F proviso.

20. Nothing in this Act contained shall be construed as interfering with the powers or rights of any company formed under *The Act respecting Joint Stock Companies for the construction of works to facilitate the transmission of Timber down Rivers and Streams*, or with mill-dams, or the right to erect and maintain mill-dams on streams; and *The Act respecting Mills and Mill-dams* and any other law conferring rights in mill-dams shall remain the same as if this Act had not been passed. 47 V. c. 17, s. 11.

Rights of companies formed under *Rev. Stat. c. 160*, not affected.

Rev. Stat. c. 118.

21. All persons driving saw-logs or other timber, rafts or crafts, down any such river, creek or stream shall have the right to go along the banks of such river, creek or stream, and to assist the passage of the timber over the same by all means usual amongst lumbermen, doing no unnecessary damage to the banks of the river, creek or stream. 47 V. c. 17, s. 12.

All persons driving logs etc., to have the right to go on river banks.

22. Every person entitled to tolls under this Act may make rules and regulations for the purpose of regulating the safe and orderly transmission of saw-logs, timber, rafts and crafts over or through such constructions or improvements; but no such rules or regulations shall have any force or effect until approved of by the Lieutenant-Governor, in Council, and the Lieutenant-Governor in Council may revoke and cancel such rules and regulations so made and approved, and from time to time approve of new rules and regulations which the person so entitled to tolls as aforesaid, shall have the power to make. 47 V. c. 17, s. 13.

Person entitled to tolls may make rules regulating transmission of timber.

23.—(1) Where in any action or other proceeding, any person shall claim, and but for this section would be entitled to, an injunction against the owner or occupier of any saw mill situate on or near the Ottawa River or any of its tributaries, for any injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing or depositing of any sawdust or other mill refuse into the said river or its tributaries from the mill, or from such mill together with other mills, the Court or Judge may refuse to grant an injunction in the action or other proceeding, in case it is proved to the satisfaction of the Court or Judge by the person against whom the injunction is claimed that having regard to all the circumstances, it is on the whole, proper and expedient not to grant the same, and for that purpose shall take into consideration the importance of the lumber trade to the locality wherein

Right to injunction against owners of mills on the Ottawa restricted.

the injury, damage or interference takes place, and the benefit and advantage, direct and consequential, which such trade confers on the locality and on the inhabitants thereof, and shall weigh the same against the private injury, damage or interference complained of ;

(2) Or the Court or Judge may grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as to the Court or Judge may seem proper ;

(3) Or may in lieu of granting an injunction direct the person against whom the injunction is claimed to take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of, as to the Court or Judge may seem proper ;

(4) Provided always that in such action or other proceeding the person claiming the injunction shall nevertheless be entitled to damages against the owner or occupier of the saw mill for any such injury, damage or interference. 48 V. c. 24, s. 1.

(5) In cases where damage from the same cause continues, the party may apply from time to time, in the same action, for the assessment of subsequent damages, or any other relief to which by subsequent events he may from time to time become entitled. 49 V. c. 16, s. 48.

Application of
preceding
section.

24. The preceding section of this Act shall apply whether the said injury, damage or interference is a continuing one or not, and whether the person claiming any such injunction is plaintiff in the said action or other proceeding, or is a defendant therein proceeding by way of counter-claim ; but the said section shall not apply where in the opinion of the Court or Judge the injury, damage or interference complained of is of such a nature that the same cannot be adequately compensated for by the awarding of damages. 48 V. c. 24, s. 2.

CHAPTER 121.

An Act respecting the Driving of Saw Logs and other Timber on Lakes, Rivers, Creeks and Streams.

SHORT TITLE, s. 1.	DAMAGES WHEN LOGS WRONGFULLY
INTERPRETATION, s. 2.	DETAINED OR SECURITY REFUSED,
WATER NOT TO BE OBSTRUCTED BY	s. 13.
FLOATING LOGS, ss. 3-5.	LIEN GIVEN BY SECS. 5, 8 AND 11 TO BE
PROVISION WHERE LOGS OF DIFFERENT	SUBJECT TO TOLLS OR DUES, s. 14.
OWNERS ARE MIXED :	RIGHTS OF CROWN NOT AFFECTED,
Owners whose logs are intermixed	s. 15.
to share cost of driving, ss. 6-8.	DISPUTES TO BE SETTLED BY ARBI-
Lien on logs, s. 8.	TRATION, ss. 16-26.
SEPARATION OF LOGS, ss. 9-11.	LIMITATION OF CLAIMS, s. 27.
FORM OF SECURITY FOR PROPORTION	EXEMPTION OF PARTS OF PROVINCE
OF EXPENSES UNDER SECS. 5, 8	FROM OPERATION OF ACT, ss. 28,
and 11, s. 12.	29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited and known as "*The Saw Logs Driving Act.*" 50 V. c. 17, s. 29.

2. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

1. "Logs" mean and include saw logs, timber, posts, ties, cordwood, and other things being parts of trees.

2. "Water" means and includes lakes, ponds, rivers, creeks and streams. 50 V. c. 17, s. 1.

3. Any person putting, or causing to be put, into any water in this Province, logs, for the purpose of floating the same in, upon or down such water, shall make adequate provisions and put on a sufficient force of men to break, and shall make all reasonable endeavours to break jams of such logs and clear the same from the banks and shores of such water with reasonable despatch, and run and drive the same so as not to unnecessarily delay or hinder the removal, floating, running or driving of other logs, or unnecessarily obstruct the floating or navigation of such water. 50 V. c. 17, s. 2.

Persons floating logs in river, etc., not to obstruct floating or navigation.

In case of neglect person obstructed may clear river, etc.

4. In case of the neglect of any person to comply with the provisions of the preceding section, it shall be lawful for any other person or persons desiring to float, run or drive logs in, upon or down such water, and whose logs would be thereby obstructed, to cause such jams to be broken and such logs to be cleared from the banks and shores of such water, and to be floated, run and driven in, upon and down such water. 50 V. c. 17, s. 3.

Person clearing obstruction to use due care.

5. The person or persons causing such jams to be broken or such logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs in the jam or so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of such logs, and may take and keep possession of such logs, or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending the decision by arbitration as hereinafter provided for. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place. The owner or person controlling such logs, if known shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such charges and expenses, possession of the logs shall be given up. 50 V. c. 17, s. 4.

Provision when logs of several owners cannot conveniently be separated.

6. When logs of any person upon or in any water in this Province, or the banks or shores of such water, are so intermixed with logs of another person or persons, that the same cannot be conveniently separated for the purpose of being floated in, upon or down such water, then the several persons owning or controlling the intermixed logs, shall respectively make adequate provisions, and put on a fair proportion of the men required to break jams of such intermixed logs, and to clear the same from the banks and shores of such water with reasonable despatch, and to float, run and drive the same in, upon and down such water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration as hereinafter provided for. 50 V. c. 17, s. 5.

Provision when owner of any portion of logs is in default.

7. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person or persons whose logs are intermixed, to put on a sufficient number of men to supply the deficiency and break jams of such intermixed logs, and to clear the same from

the banks and shores of such water, and to float, run and drive all such intermixed logs in, upon and down such water. 50 V. c. 17, s. 6.

8. The person or persons supplying such deficiency and causing such jams to be broken, or such intermixed logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs owned or controlled by the person guilty of such neglect, for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming and keeping possession of such intermixed logs; and may take and keep possession of such logs, or so much thereof, as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. 50 V. c. 17, s. 7. Lien on logs.

9. When logs of any person, upon or in any water in this Province, or the banks or shores of such water, are intermixed with logs of another person or persons, then any of the persons whose logs are intermixed, may at any time during the drive, require his logs to be separated from the other logs at some suitable and convenient place, and after such separation he shall secure the same at his own cost and expense, in such manner as to allow free passage for such other logs; provided that when any logs so intermixed reach their place of original destination, if known, the same shall be separated from the other logs and after such separation the owner shall secure the same at his own cost and expense. 50 V. c. 17, s. 8. Separation of logs.
Proviso.

10. The several persons owning or controlling the intermixed logs shall respectively make adequate provisions and put on a fair proportion of the men required to make the separation; the cost and expense of such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement, as may be determined by arbitration as hereinafter provided. 50 V. c. 17, s. 9. Expenses of separation to be shared.

11. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person or persons, whose logs are intermixed, to put Provision when owner does not provide for his share of work.

on a sufficient number of men to supply the deficiency, and the logs owned by or controlled by the person guilty of such neglect shall be subject to a lien in favour of the person or persons supplying the deficiency, for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person or persons may take and keep possession of such logs or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for. The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place. The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. 50 V. c. 17, s. 10.

Form of
security.

12. The security referred to in sections 5, 8 and 11 may be by bond in form A in the schedule hereto, or by deposit of money, or in such other way as the parties may agree upon. 50 V. c. 17, s. 11.

Damages
when person
has wrongfully
detained logs
or refused
security.

13. If it be determined by arbitration, as hereinafter provided for, that any person acting under the assumed authority of this Act, has without just cause taken possession of or detained or caused to be taken possession of or detained logs of another person, or has after offer of security which the arbitrators may think should have been accepted, detained such logs, or has through want of reasonable care left logs of another person on the banks or shores or has taken logs of another person beyond the place of their original destination contrary to the provisions of sections 5, 8 or 11, then such first mentioned person shall pay to such last mentioned person such damages as the arbitrators may determine. 50 V. c. 17, s. 12.

Lien under ss.
5, 8 and 11,
subject to lien
for tolls.

14. The lien given by sections 5, 8 and 11 of this Act shall be subject to the lien (if any) of any person or corporation for tolls or dues, for the use of any works or improvements made use of in running or driving logs. 50 V. c. 17, s. 13.

Rights of
Crown not
affected.

15. Nothing in this Act shall affect the liens or rights of the Crown upon or in respect of any logs. 50 V. c. 17, s. 14.

Disputes to be
settled by
arbitration.

16. All claims, disputes and differences arising under this Act shall be determined by arbitration as hereinafter provided and not by action. 50 V. c. 17, s. 15.

17. The person claiming that another person has not complied with the provisions of this Act, or claiming payment of any charges or expenses under this Act, or claiming a lien upon any logs, or claiming damages under section 13, shall give to such other person notice in writing, stating the substance of the claims made, and appointing an arbitrator, and calling upon such other person to appoint an arbitrator within ten days after the service of the notice; if such other person does not within the ten days appoint an arbitrator the Judge of the County or District Court of the county or district, or the Stipendiary Magistrate of the provisional county or the district, as the case may be, in which the logs in connection with which the claim or part of the claim is made, or the major portion of the logs are situate at the time of the service of the notice, shall, on the application of the person giving the notice, appoint a second arbitrator; the two arbitrators so appointed shall within ten days after the appointment of the second arbitrator appoint a third; if the two arbitrators do not within the ten days appoint a third, the Judge or Stipendiary Magistrate shall, on the application of either party, appoint the third arbitrator. 50 V. c. 17, s. 16.

18. If an arbitrator refuses to act or becomes incapable of acting, or dies, and the parties do not concur in appointing a new arbitrator, the Judge or Stipendiary Magistrate shall, on the application of either party, appoint a new arbitrator. 50 V. c. 17, s. 17.

19. The parties may agree that the arbitration shall be by one arbitrator instead of by three, and they may either agree upon the arbitrator or may apply to the Judge or Stipendiary Magistrate to appoint one. 50 V. c. 17, s. 18.

20. The person on whom a claim is made and notice of arbitration served may at any time before the arbitration is entered upon or with leave of the arbitrators during the arbitration, give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Act which such person may have against the claimant, and such counterclaim, unless barred under section 27, shall be determined in the arbitration and an award made with respect thereto. 50 V. c. 17, s. 19.

21. The three arbitrators or the sole arbitrator, as the case may be, shall proceed with the arbitration with due despatch, and shall make their or his award in writing, under their or his hand within thirty days from the date of the appointment of such arbitrator, or the last of such three arbitrators, as the case may be. The parties may, by consent in writing, from time to time enlarge the time for making the award, or the Judge or Stipendiary Magistrate may from time to time, either before or after the expiration of the said time, enlarge the time for making the award. 50 V. c. 17, s. 20.

Witnesses and evidence.

22. The arbitrators or arbitrator may require the personal attendance and examination upon oath of the parties and their witnesses and the production of all books and documents relating to the matters in question, and may determine by whom the expense of the arbitration, and the costs of the parties shall be paid, and the amount thereof; any costs or expenses payable to a person having a lien upon logs, by virtue of this Act shall be added to the amount of such lien. 50 V. c. 17, s. 21.

Rev. Stat. c. 53, ss. 19-30 to apply.

23. Sections 19 to 30 inclusive of *The Act respecting Arbitrations and References* applies to arbitrations under this Act 50 V. c. 17, s. 22.

Sale by person having lien.

24. The person having a lien upon logs by virtue of this Act, may sell the same in order to realize the amount of such lien, and of the costs, charges and expenses connected with the sale. The arbitrators, or arbitrator, shall determine either by their award or by separate document the time, place and manner of such sale, and may from time to time, give directions, in writing, respecting such sale, and the realization of such lien, and of the costs, charges and expenses connected therewith. 50 V. c. 17, s. 23.

Award and directions to be final.

25. The award and directions in writing, of any two of the three arbitrators, or of the sole arbitrator, as the case may be, shall be final and binding upon and shall be obeyed by the parties, and shall be valid, notwithstanding any want or defect of form or other technical objection. 50 V. c. 17, s. 24.

Compelling attendance of witnesses and production of documents.

26. The Judge or Stipendiary Magistrate, as the case may be, may, on the application of either party, grant an order to compel any person to attend and give evidence upon the arbitration and to produce all books and documents relating to the matters in dispute, and obedience to such order may be enforced in the same way as obedience to any order of such Judge or Stipendiary Magistrate made in a cause or matter pending before him in court may be enforced, and the person neglecting or refusing, without lawful excuse, to obey such order, shall be liable to an action by any person aggrieved by such neglect or refusal for the damages sustained by him thereby. 50 V. c. 17, s. 25.

Limitation of claims.

27. All claims arising under this Act shall be made by notice in writing under section 17, within one year after the same have arisen, otherwise they shall be barred. 50 V. c. 17, s. 26.

Lieut.-Governor in Council may exempt districts from Act.

28. The Lieutenant-Governor in Council may from time to time by proclamation published in the *Ontario Gazette* declare that any portion or portions of this Province or any water therein shall, until further proclamation, be exempt from the operation of this Act, and thereupon the same shall be exempt accordingly. 50 V. c. 17, s. 27.

29. Any portion or portions of the Province, or any water therein exempted by proclamation from the operation of this Act may, by proclamation published in the *Ontario Gazette*, be again brought within its operation until further proclamation, and so on from time to time. 50 V. c. 17, s. 28.

District ex-
empted may
be brought
under Act.

SCHEDULE.

FORM A.

(Section 12.)

Know all men by these presents that we (here insert names of obligors, being the owner of the logs and at least one sufficient surety; or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties), are held and firmly bound unto A. B. (here insert the name of the person claiming the lien) in the penal sum of (double the amount of the claim) \$, to be paid to the said A. B., his executors, administrators and assigns, for which payment well and truly to be made, we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this day of , A. D., 18 .

Whereas the said A. B., claiming to act under the authority of *The Saw Logs Driving Act*, has taken possession of certain (saw logs, timber, etc., as the case may be) owned or controlled by and claims a lien thereon for the sum of \$, under the provisions of section (5, 8 or 11, as the case may be) of the said Act.

And whereas this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Act, and of any costs and expenses of the arbitration which may become payable to him.

Now the condition of the above obligation is such that if the said , his executors or administrators do pay to the said A. B., his executors, administrators or assigns, such sum as may be determined by arbitration pursuant to the said Act, to be payable to the said A. B., his executors, administrators or assigns. for charges and expenses under section (5, 8 or 11, as the case may be) of said Act, and also such sum as may become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered }
in the presence of }

[SEAL.]

[SEAL.]

50 V. c. 17, Schedule.

SECTION IX.

MERCANTILE LAW.

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- CHAP. 122—MERCANTILE AMENDMENT ACT, p. 1188.
 “ 123—WRITTEN PROMISES, p. 1195.
 “ 124—FRAUDULENT PREFERENCE OF CREDITORS, p. 1197.
 “ 125—CHATTEL MORTGAGES AND SALES OF PERSONAL PROPERTY, p. 1207.
 “ 126—MECHANICS’ LIENS, p. 1216.
 “ 127—WAGES, p. 1227.
 “ 128—CONTRACTS IN RELATION TO GOODS ENTRUSTED TO AGENTS, p. 1228.
 “ 129—LIMITED PARTNERSHIPS, p. 1232.
 “ 130—REGISTRATION OF CO-PARTNERSHIPS, p. 1236.
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CHAPTER 122.

An Act to Amend the Mercantile Law.

<p>SHORT TITLE, s. 1. SURETIES : Paying principal's debt to be entitled to securities, remedies, etc., of the creditor, ss. 2, 3. Rights, <i>inter se</i>, s. 4. BILLS OF LADING : Rights, under, transferable by endorsement, s. 5 (1, 2). Conclusive as against the signer, s. 5 (3). CHOSSES IN ACTION : “ Assignee ” defined, s. 6.</p>	<p>Debts and <i>choses in action</i> assignable, s. 7. Assignment to self and others, s. 8. Bonds, etc., of corporations assignable, s. 9. Pleadings in actions on, s. 10. Right to set off, etc., when preserved, ss. 11, 12. Sects. 6-12 not to apply to bills and notes, s. 13. WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY, ss. 14-20. STATEMENT UNDER REV. STAT. C. 157, s. 21.</p>
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title. 1. This Act may be cited as “ *The Mercantile Amendment Act.* ” R. S. O. 1877, c. 116, s. 1.

Right of sureties paying the principal debt, etc., to assignment. 2. Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, pays the debt or performs the duty, shall be entitled to have assigned to him or a trustee for him, every judgment, specialty,

or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security be or be not deemed at law to have been satisfied by the payment of the debt or the performance of the duty. R. S. O. 1877, c. 116, s. 2.

3. Such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, if need be, and on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who has so paid such debt or performed such duty; and such payment or performance so made by such surety shall not be a defence to such action or other proceeding by him. R. S. O. 1877, c. 116, s. 3.

4. No co-surety, co-contractor or co-debtor shall be entitled to recover from any other co-surety, co-contractor or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person is justly liable. R. S. O. 1877, c. 116, s. 4.

BILLS OF LADING.

5. Whereas by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; and whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bills of lading in the hands of a *bona fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid;

Therefore it is enacted as follows;

1. Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement, shall have transferred to, and vested in him all rights of action, and be subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made to himself.

2. Nothing in this section contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Bills of lading
as evidence
against signer.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel or train shall be conclusive evidence of the shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary; but the master or other person so signing, may exonerate himself in respect to such misrepresentation, by shewing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. R. S. O. 1877, c. 116, s. 5.

CHoses IN ACTION ASSIGNABLE.

Interpretation
of the word
Assignee.

6. In the next succeeding six sections of this Act,

"Assignee" shall include any person now being or hereafter becoming entitled by any first or subsequent assignment, or any derivative or other title, to a *chose in action*, and possessing at the time of action brought the beneficial interest therein, and the right to receive and to give an effectual discharge for the moneys, or the charge, lien, incumbrance, or other obligation thereby secured. R. S. O. 1877, c. 116, s. 6.

Choses in action
made
assignable.

Assignee
to sue in his
own name.

7. Every debt and *chose in action* arising out of contract shall be assignable by any form of writing, but subject to such conditions or restrictions with respect to the right of transfer as are contained in the original contract; and the assignee thereof, shall sue thereon in his own name in the action, and for such relief as the original holder or assignor of such *chose in action* would be entitled to sue for in any Court in this Province. R. S. O. 1877, c. 116, s. 7.

Assignment of
property to
self and others.

8. Any property, real or personal, may be conveyed or assigned by a person to himself jointly with another person by the like means by which it might be conveyed or assigned by him to another person and may in like manner be conveyed or assigned by a husband to his wife and by a wife to her husband alone or jointly with another person. R. S. O. 1877, c. 95, s. 10; 49 V. c. 20, s. 6.

Bonds of cor-
porations.

9.—(1) The bonds or debentures of corporations made payable to bearer, or to any person named therein or bearer, may be transferred by delivery, and if payable to any person or order shall (after general endorsement thereof by such person) be transferable by delivery from the time of the endorsement.

(2) Any such transfer shall vest the property of such bonds or debentures in the holder thereof to enable him to maintain an action thereon in his own name. R. S. O. 1877, c. 116, s. 8.

10. Subject to the provisions of *The Judicature Act* the plaintiff in any action where the assignment is required by this Act to be in writing may claim as assignee of the original party or first assignor, setting forth briefly the various assignments under which the *chose in action* has become vested in him; and in other respects the pleadings and proceedings in the action shall be as if the action was instituted in the name of the original party or first assignor. R. S. O. 1877, c. 116, s. 9.

Pleadings and proceedings.
Rev. Stat. c. 44.

11. In case of an assignment of a debt or *chose in action* arising out of contract, and not assignable by delivery, the transfer shall be subject to any defence, or set-off, in respect of the whole or any part of such claim as existed at the time of, or before notice of the assignment to the debtor or other person sought to be made liable, in the same manner and to the same extent as such defence would be effectual, in case there had been no assignment thereof; and such defence or set-off shall apply as between the debtor and any assignee of the debt or *chose in action*. R. S. O. 1877, c. 116, s. 10.

Original right of set-off and defences, continued.

12. In case of an assignment in writing as aforesaid, and notice thereof given to the debtor or other person liable in respect of a *chose in action*, arising out of contract, the assignee shall have, hold, and enjoy the same, free from any claims, defences, or equities which might arise after such notice as against his assignor. R. S. O. 1877, c. 116, s. 11.

Assignee entitled free from *contra* claims to arise after notice to the person liable.

13. The next preceding seven sections of this Act shall not apply to bills of exchange or promissory notes. R. S. O. 1877, c. 116, s. 12.

Secs. 6-12 not to apply to bills and notes.

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY.

14. The words "goods, wares and merchandise" when used in the following sections of this Act, shall, except where, otherwise expressly provided in said sections, be held to comprise, in addition to the things usually understood thereby, timber, boards, deals, staves and other lumber. R. S. O. 1877, c. 116, s. 13.

Interpretation.

15. Any cove receipt, bill of lading, specification of timber, or any receipt given by a cove keeper, miller, or by the keeper of a warehouse, wharf, yard, harbour or other place, for cereal grains, goods, wares or merchandise laid up, stored or deposited, or to be laid up, stored or deposited in or on the cove, mill, warehouse, wharf, yard, harbour or other place in this Province, of which he is keeper, or any bill of lading or receipt given by a master of a vessel, or by a carrier for carrying cereal grains, goods, wares or merchandise shipped in such vessel or delivered to such carrier for carriage from any place whatever, to any part of this Province or through the same, or on the waters

Cove receipts, etc., may be transferred by endorsement as collateral security.

And may sell the goods if such bills are not duly paid, returning surplus, etc.

bordering thereon, or from the same to any other place whatever, and whether such cereal grains are to be delivered upon such receipt *in specie* or converted into flour, may, by endorsement thereon by the owner of, or person entitled to receive such cereal grains, goods, wares or merchandise, or his attorney or agent, be transferred to any private person as collateral security for any debt due to such private person, and being so endorsed shall vest in such private person from the date of the endorsement, all the right and title of the endorser to or in such cereal grains, goods, wares or merchandise, subject to the right of the endorser to have the same retransferred to him, if the debt is paid when due; and in the event of the non-payment of the debt when due, such private person may sell the said cereal grains, goods, wares or merchandise and retain the proceeds or so much thereof as will be equal to the amount due to the private person upon the debt, with any interest or costs, returning the overplus, if any, to the endorser. R. S. O. 1877, c. 116, s. 14.

Cove-keeper, etc., owning or being entitled to the goods, may give a certificate of the fact and endorse it.

16. Where a person engaged in the calling of cove-keeper, miller, or of keeper of any warehouse, wharf, yard, harbour or other place, master of a vessel or carrier, by whom a receipt or bill of lading may be given in such his capacity, as hereinbefore mentioned, for cereal grains, goods, wares or merchandise, is at the same time the owner of or entitled himself (otherwise than in his capacity of cove-keeper, miller, or of keeper of a warehouse, wharf, yard, harbour or other place, or of master of a vessel or carrier) to receive such cereal grains, goods, wares or merchandise, any such receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose of such receipt or bill of lading, given and endorsed by such person, shall be as valid and effectual for the purposes of this Act, as if the person giving such receipt or bill of lading acknowledgment or certificate, and endorsing the same, were not one and the same person. R. S. O. 1877, c. 116, s. 15.

Goods not to be held beyond a certain time.

At what time any such security must be transferred.

Goods not to be sold without notice to the owner.

17. No such cereal grains, and no such goods, wares or merchandise (other than timber, boards, deals, staves or other lumber), shall be held in pledge by such private person for any period exceeding six months; and no transfer of such bill of lading, specification of timber or receipt, shall be made under this Act to secure the payment of any debt, unless the debt is contracted at the same time with the endorsement of the bill of lading, specification of timber or receipt; and further, no sale of any cereal grains or of goods, wares or merchandise, (other than timber, boards, deals, staves or other lumber, shall take place under this Act until and unless ten days notice of the time and place of the sale has been given by registered letter transmitted through the post office, to the owner of such cereal grains or such goods, wares or merchandise other than as afore-said prior to the sale thereof. R. S. O. 1877, c. 116, s. 16.

18.—(1) No timber, boards, deals, staves or other lumber, shall be held in pledge by such private person, for any period exceeding twelve months; and no transfer of any such receipt or bill of lading shall be made under this Act to secure the payment of any debt, unless the debt is contracted at the same time with the endorsement of the receipt or bill of lading; and further, no sale of any timber, boards, deals, staves or other lumber, shall be made under this Act, until and unless thirty days' notice of the time and place of such sale has been given, by registered letter transmitted through the post office, to the owner of the timber, boards, deals, staves, or other lumber prior to the sale thereof.

Timber, etc., not to be held beyond twelve months.

Receipt to be endorsed when debt is contracted.

Timber, etc., not to be sold without notice to owner.

(2) Every such sale shall be made by public auction, after notice thereof by advertisement, stating the time and place thereof, for at least eight days consecutively, in at least two daily newspapers published in or nearest to the place where such sale is to be made.

Sale to be by auction after notice.

(3) A daily newspaper shall be deemed to be published nearest to a place if no two other daily newspapers are published in or nearer to such place.

(4) If in any place where any such sale by auction is to be made, there is not a newspaper published daily, but some newspaper or newspapers is or are published there less often than daily, then the advertisement shall also be published in every issue of such local newspaper, or of at least one of such local newspapers, during the time of its being published in daily newspapers. R. S. O. 1877, c. 116, s. 17.

In places where no daily newspaper is published.

19. All advances made on the security of any such cover receipt, bill of lading, specification, receipt, acknowledgment or certificate as aforesaid, shall give and be held to give to the person making the advances, a claim for the repayment of such advances on the cereal grains, goods, wares or merchandise therein mentioned, prior to and by preference over the claim of any unpaid vendor, or other creditor, save and except claims for wages of labour performed in making and transporting such timber, boards, deals, staves or other lumber. R. S. O. 1877, c. 116, s. 18.

Advance on cover receipt, etc., to give a first lien on timber, etc.

20. All transportation and warehouse receipts, accepted orders and certificates for crude petroleum, issued by any company heretofore, or which may, at any time hereafter, be incorporated under *The Ontario Joint Stock Companies' Letters Patent Act*, or by any other company incorporated under competent authority, and authorized to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such endorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in any such transportation or

Transfer of warehouse receipts for crude petroleum issued by incorporated companies. Rev. Stat. c. 157.

warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of such transportation or warehouse receipt, accepted order or certificate, as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way; and on the delivery of any petroleum mentioned in such document, by such company, in good faith, to a person in possession of such transportation or warehouse receipt, accepted order or certificate, endorsed or transferred as aforesaid, the company shall be freed from all further liability in respect thereof, and the endorsee, or transferee or holder of every such transportation or warehouse receipt, accepted order or certificate, to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. 48 V. c. 25, s. 1.

Particulars as to petroleum held by company to be given in statement required by Rev. Stat. c. 157, s. 57.

21—(1) In the summary required to be made by any company under the provisions of section 57 of *The Ontario Joint Stock Companies' Letters Patent Act*, so long as the company carries on the business of warehousing crude petroleum, the following other particulars shall be contained in the summary:

1. The total quantity of crude petroleum actually held by the company for the purpose of answering such transportation and warehouse receipts, accepted orders and certificates as aforesaid.

2. The total quantity of crude petroleum in respect of which the company as warehousemen, or carriers, are liable to make delivery to other persons.

(2) The said section 57 shall as respects the particulars hereinbefore required to be inserted in the summary apply to every other incorporated company carrying on a business of warehousing crude petroleum in this Province, so long as such company carries on the same. 48 V. c. 25, s. 2.

CHAPTER 123.

An Act respecting Written Promises and Acknowledgments of Liability.

WRITTEN ACKNOWLEDGMENT, ETC., REQUIRED TO TAKE CASE OUT OF STATUTE OF LIMITATIONS IN CERTAIN CASES, s. 1.	RATIFICATION OF PROMISE MADE DURING INFANCY, TO BE IN WRITING, s. 6.
ACKNOWLEDGMENT, ETC., BY ONE OF SEVERAL JOINT CONTRACTORS, s. 2.	REPRESENTATION AS TO CREDIT OR CHARACTER, s. 7.
RECOVERY AGAINST JOINT CONTRACTORS, s. 3.	CONSIDERATION FOR A GUARANTY NEED NOT APPEAR IN WRITING, s. 8.
ENDORSEMENTS BY PAYEE ON A BILL OR NOTE, s. 4.	SECTION 17 OF THE STATUTE OF FRAUDS, EXTENDED TO GOODS TO BE DELIVERED AT A FUTURE TIME, s. 9.
SET OFF WITHIN STATUTES OF LIMITATIONS, s. 5.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of the Act, passed in England in the twenty-first year of the Reign of King James the First, any case falling within the provisions of the said Act respecting actions

Written memorandum required to take the case out of the Statute of Limitations, 21 Jac. i, c. 16.

(a) Of account and upon the case other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants;

(b) On simple contract or of debt grounded upon any lending or contract without specialty and

(c) Of debt for arrears of rent;

or to deprive any party of the benefit thereof, unless such acknowledgment or promise is made or contained by or in some writing signed by the party chargeable thereby, or by his agent duly authorized to make such acknowledgment or promise. R. S. O. 1877, c. 117, s. 1.

2. Where there are two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the said Act so as to be chargeable in respect or by reason only of

Case of two or more joint contractors or executors.

any written acknowledgment or promise made and signed by any other or others of them, or by reason of any payment of any principal or interest made by any other or others of them. R. S. O. 1877, c. 117, s. 2.

Where plaintiff may be barred as to one or more defendants but not as to all.

3. In actions commenced against two or more such joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by the said Act of King James the First or by this Act, as to one or more of such joint contractors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment as aforesaid, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R. S. O. 1877, c. 117, s. 3.

Endorsement, etc., made by the payee not to take a note, etc., out of the statute.

4. No endorsement or memorandum of any payment, written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of the said Act of King James. R. S. O. 1877, c. 117, s. 6.

Statute to apply to set-off.

5. The said Act of King James and this Act, shall apply to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R. S. O. 1877, c. 117, s. 7.

As to ratification of promise made during non-age.

6. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless the promise or ratification is made by some writing signed by the party to be charged therewith, or by his agent duly authorized to make the promise or ratification. R. S. O. 1877, c. 117, s. 8.

As to representation regarding the character, credit, etc. of a third party.

7. No action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless the representation or assurance is made in writing signed by the party to be charged therewith. R. S. O. 1877, c. 117, s. 9.

Consideration for promise to answer for another need not be in writing.

8. No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action, or other pro-

ceeding to charge the person by whom the promise has been made, by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R. S. O. 1877, c. 117, s. 10.

9. Section 17 of the Act passed in England in the 29th year of the Reign of King Charles the Second, entitled, "*An Act for the prevention of Frauds and Perjuries*," shall extend to all contracts for the sale of goods of the value of \$40 and upwards, notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of the contract be actually made, procured or provided, or fit or ready for delivery, or although some act may be requisite for the making or completing thereof, or rendering the same fit for delivery. R. S. O. 1877, c. 117, s. 11.

Statute of
Frauds, 29 Car.
ii, c. 3, extend-
ed to contracts
for goods to be
delivered at a
future time.

CHAPTER 124.

An Act respecting Assignments and Preferences by Insolvent persons.

CONFESSIONS OF JUDGMENT, COGNOVITS,
ETC., IN FRAUD OF CREDITORS TO
BE VOID, s. 1.

ASSIGNMENTS, ETC., IN FRAUD OF
CREDITORS TO BE VOID, s. 2.

RECOVERY OF PROCEEDS WHERE PRO-
PERTY SOLD, s. 8.

ASSIGNMENTS FOR BENEFIT OF CREDI-
TORS, ss. 3, 4.

How claims are to rank, s. 5.

Appointment and rights of as-
signee, ss. 6, 7, 11.

Assignments to take precedence
of judgments, s. 9.

Amendment by Court, s. 10.

Notice to be published, ss. 12 (1),
13-15.

Assignment to be registered, s.
12 (2), 14, 15.

MEETING OF CREDITORS, ss. 16, 17.
Voting, ss. 18, 19.

PROOF OF CLAIM, s. 20.

ACCOUNTS TO BE PREPARED BY
ASSIGNEE, s. 21.

NOTICE OF DIVIDEND SHEET, s. 22.

SET OFF, s. 23.

AFFIDAVITS, s. 24.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case any person, being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor or creditors, gives a confession of judgment,

Confessions or
warrants to
confess judg-
ments given by
insolvents to

defeat or delay
creditors or to
give one pre-
ference over
the other to be
void.

cognovit actionem or warrant of attorney to confess judgment with intent, in giving such confession, *cognovit actionem* or warrant of attorney to confess judgment, to defeat or delay his creditors wholly or in part or with intent thereby to give one or more of the creditors of any such person a preference over his other creditors, or over any one or more of such creditors, every such confession, *cognovit actionem* or warrant of attorney to confess judgment, shall be deemed and taken to be null and void as against the creditors of the party giving the same, and shall be invalid and ineffectual to support any judgment or writ of execution. R. S. O. 1877, c. 118, s. 1.

Gifts, trans-
fers, etc., made
by insolvents,
which defeat
or prejudice
creditors, to be
void.

2. Every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes, securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency, with intent to defeat, delay, or prejudice his creditors, or to give to any one or more of them a preference over his other creditors, or over any one, or more of them, or which has such effect, shall, as against them, be utterly void. 48 V. c. 26, s. 2.

Assignments
for benefit of
creditors and
bona fide sales,
etc., protected.

3.—(1) Nothing in the preceding section shall apply to any assignment made to the sheriff of the county in which the debtor resides or carries on business, or to another assignee, resident within the Province of Ontario, with the consent of the creditors as hereinafter provided, for the purpose of paying ratably and proportionately and without preference or priority all the creditors of the debtor their just debts; nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to innocent purchasers or parties; nor to any payment of money to a creditor, nor to any *bona fide* gift, conveyance, assignment, transfer or delivery over of any goods, securities or property of any kind, as above-mentioned, which is made in consideration of any present actual *bona fide* payment in money, or by way of security for any present actual *bona fide* advance of money, or which is made in consideration of any present actual *bona fide* sale or delivery of goods or other property; provided that the money paid, or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

Proviso.

(a) In case of a valid sale of goods, securities or property, and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor, under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment or transfer,

even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made. 48 V. c. 26, s. 3, (1); 50 V. 19, ss. 1, 2.

(2) Every assignment for the general benefit of creditors, which is not void under section 2 of this Act, but is not made to the sheriff, nor to any other person with the prescribed consent of creditors, shall be void as against a subsequent assignment which is in conformity with this Act, and shall be subject in other respects to the provisions of this Act until and unless a subsequent assignment is executed in accordance with this Act.

(3) In case a payment has been made which is void under this Act, and any valuable security was given up in consideration of the payment, the creditor shall be entitled to have the security restored, or its value made good to him before, or as a condition of, the return of the payment. 50 V. c. 19, s. 3.

(4) Nothing herein contained is to affect *The Act respecting Wages*, or to prevent a debtor providing for payment of wages due by him in accordance with the provisions of the said Act. Rev. Stat. c. 127.

Nor shall anything herein contained affect any payment of money to a creditor, where such creditor by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid, unless the value of the security is restored to the creditor. Nor shall anything herein contained invalidate a security given to a creditor for a pre-existing debt where by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor, in the *bona fide* belief that the advance will enable the debtor to continue his trade or business, and to pay his debts in full. 48 V. c. 26, s. 3, (2); 49 V. c. 25, s. 1.

Certain assignments to be valid.

(5) The debtor may in the first place with the consent of a majority of his creditors having claims of \$100 and upwards computed according to the provisions of section 19, make a general assignment for the benefit of his creditors, to some person other than the sheriff and residing in this Province. 48 V. c. 26, s. 3, (4); 50 V. c. 19, s. 4.

4. Every assignment made under this Act, for the general benefit of creditors shall be valid and sufficient if it is in the words following, that is to say—all my personal property which may be seized and sold under execution and all my real estate, credits and effects, or if it is in words to the like effect; and an assignment so expressed shall vest in the assignee all the real and personal estate, rights, property, credits and effects; whether vested or contingent belonging at the time of the assignment to the assignor, except such as are by law exempt from seizure, or sale under execution, subject, however, as regards lands, to the provisions of the registry law as to the registration of the assignment. 48 V. c. 26, s. 4.

Form of assignment for general benefit of creditors.

How claims
are to rank.

5. If any assignor or assignors executing an assignment under this Act for the general benefit of his or their creditors owes or owe, debts both individually and as a member of a co-partnership, or as a member of two different co-partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other after all the creditors of that other have been paid in full. 48 V. c. 26, s. 5.

Appointment
of assignee.

6.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards, may at their discretion substitute for the sheriff a person residing in the county in which the debtor resided, or carried on business at the time of the assignment. An assignee may also be removed, and another assignee may be substituted, or an additional assignee may be appointed by a Judge of the High Court, or of the County Court where the assignment is registered. 48 V. c. 26, s. 6.

Estate to vest
in assignee.

(2) Where a new assignee is appointed the estate shall forthwith vest in him without a conveyance or transfer. The new assignee may register an affidavit of his appointment in the office in which the original assignment was filed, such an affidavit may also be registered under *The Registry Act*. The registration of the affidavit under *The Registry Act* shall have the same effect as the registration of a conveyance. 49 V. c. 25, s. 4.

Rev. Stat.
c. 114.

Rights of
assignee.

7.—(1) Save as provided in the next succeeding sub-section the assignee shall have an exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors, or made or entered into in violation of this Act.

(2) If at any time any creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the estate, and the trustee under the authority of the creditors or inspectors, refuses or neglects to take such proceeding, after being duly required so to do, the creditor shall have the right to obtain an order of the Judge authorizing him to take the proceedings in the name of the trustee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee, as the Judge may prescribe, and thereupon any benefit derived from the proceedings shall belong exclusively to the creditor instituting the same for his benefit, but if, before such order is granted, the assignee shall signify to the Judge, his readiness to institute the proceedings for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall appertain to the estate. 48 V. c. 26, s. 7.

8. If the person to whom any gift, conveyance, assignment, transfer, delivery or payment as in section 2 of this Act is mentioned, has been made shall have sold or disposed of the property which was the subject of such gift, conveyance, assignment, transfer, delivery or payment, or any part thereof, the moneys or other proceeds realized therefor, may be seized or recovered in any actions under the last preceding section as fully and effectually as the property if still remaining in the possession or control of such person could have been seized or recovered. 48 V. c. 26, s. 8.

Recovery of
proceeds
where prop-
erty sold.

9. An assignment for the general benefit of creditors under this Act shall take precedence of all judgments and of all executions not completely executed by payment, subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands, or to the lien, if any, of the creditor for his costs who has the first execution in the sheriff's hands. 48 V. c. 26, s. 9; 49 V. c. 25, s. 2.

Assignments
to take pre-
cedence of
judgments and
executions.

10. No advantage shall be taken or gained by any creditor of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and if there be any mistake, defect or imperfection therein the same shall be amended by any Judge of the High Court, or of the County Court aforesaid, on application of any creditor of the assignor, or of the assignee, on such notice being given to other parties concerned as the Judge shall think reasonable, and the amendment, when made, shall have relation back to the date of the said assignment. 48 V. c. 26, s. 10.

Amendment
of assignment
by court.

11.—(1) The assignee shall receive such remuneration as shall be voted to him by the creditors at any meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case of the creditors failing to provide therefor, subject to the review of the County Court of the county in which the assignment is registered or the Judge thereof, if complained of by the assignee or any of the creditors. 48 V. c. 26, s. 11.

Remuneration
of assignee.

(2) In case no remuneration is voted to the assignee by the creditors, or the inspectors, the amount shall be fixed by the said Judge. 50 V. 19, s. 9.

12.—(1) No assignment made for the general benefit of creditors under this Act shall be within the operation of *The Act respecting Mortgages and Sales of Personal Property*; but a notice of the assignment shall, as soon as conveniently may be, be published at least once in the *Ontario Gazette* and in one newspaper at the least, having a general circulation in the county in which the property assigned is situate, not less than twice. 48 V. c. 26, s. 12 (1); 49 V. c. 25, s. 5.

Notice of
assignment to
be published.
Rev. Stat.
c. 125.

Assignment to
be registered.

(2) A counterpart or copy of every such assignment shall also within five days from the execution thereof be registered, (together with an affidavit of a witness thereto of the due execution of the assignment or of the due execution of the assignment of which the copy filed purports to be a copy), in the office of the clerk of the County Court of the County or union of Counties where the assignor, if a resident in Ontario, resides at the time of the execution thereof, or if he is not a resident then in the office of the clerk of the County Court of the county or union of counties where the personal property so assigned is or where the principal part thereof (in case the same includes property in more counties than one) is at the time of the execution of the assignment; and such clerks shall file all such instruments presented to them respectively for that purpose, and shall endorse thereon the time of receiving the same in their respective offices, and the same shall be kept there for the inspection of all persons interested therein. The said clerks respectively shall number and enter such assignments, and be entitled to the same fees for services in the same manner as if such assignments had been registered under *The Act respecting Mortgages and Sales of Personal Property*. 48 V. c. 26, s. 12 (2).

Rev. Stat.
c. 125.

Rev. Stat.
c. 125.

(3) In provisional judicial districts, and territorial districts, and in the temporary judicial district of Nipissing, the counterpart or copy of the assignment shall be filed in the same office and within the same time respectively, as mortgages and other instruments are directed to be filed in such districts, under the provisions of sections 21, 22 and 23, of *The Act respecting Mortgages and Sales of Personal Property*, and the clerk shall perform the same duties and have the same fees as clerks acting under the preceding sub-section. 49 V. c. 25, s. 3.

Penalty for
neglecting
publication.

13.—(1) If the said notice is not published in the regular number of the *Ontario Gazette*, and of such newspaper as aforesaid, which shall respectively be issued first after five days from the execution of the assignment by the assignor, or if the assignment is not registered as aforesaid within five days from the execution thereof, the assignor shall be liable to a penalty of \$25 for each and every day which shall pass after the issue of the number of the newspaper in which the notice should have appeared until the same shall have been published; and a like penalty for each and every day which shall pass after the expiration of five days from the execution of the assignment by the assignor until the same shall have been registered.

(2) The assignee is to be subject to a like penalty for each and every day which shall pass after the expiration of five days from the delivery of the assignment to him, or of five days after his assent thereto, the burden of proving the time of such delivery or assent being upon the assignee.

(3) Such penalties may be recovered summarily before a Judge of the High Court, or of the County Court of the county in which the assignment ought to be published or registered; one-half of the penalty shall go to the party suing, and the other half for the benefit of the estate of the assignor. 48 V. c. 26, s. 13.

(4) In case of an assignment to the sheriff, he shall not be liable for any of the penalties imposed in this section, unless he has been paid or tendered the cost of advertising and registering the assignment, nor shall he be compelled to act under assignment until his costs in that behalf are paid or tendered to him. 50 V. c. 19, s. 10.

Liability of
sheriff.

14. In case the assignment be not registered, and notice thereof published, an application may be made by any one interested in the assignment to a Judge of the High Court, or of the County Court aforesaid, to compel the publication and registration thereof; and the Judge shall make his order in that behalf, and with or without costs, or upon the payment of costs by such person as he may in his discretion direct to pay the same. 48 V. c. 26, s. 14.

Compelling
publication
and
registration.

15. The omission to publish or register as aforesaid, or any irregularity in the publication or registration, shall not invalidate the assignment. 48 V. c. 26, s. 15.

Assignment
not invali-
dated by
omission to
publish, etc.

16. It shall be the duty of the assignee to immediately inform himself, by reference to the debtor and his records of account, of the names and residences of the debtor's creditors, and within five days from the date of assignment to convene a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to him, a circular calling a meeting of creditors to be held in his office or other convenient place to be named in the notices not later than twelve days after the mailing of such notice, and by advertisement in the *Ontario Gazette*; and all other meetings to be held shall be called in like manner. 48 V. c. 26, s. 16.

Assignee to
call meeting
of creditors

17.—(1) In case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to the provisions of section 19 of this Act, it shall be the duty of the assignee within two days after receiving such request, to call a meeting of the creditors at a time not later than twelve days after the assignee receives the request. In case of default the assignee shall be liable to a penalty of \$25 for every day after the expiration of the time limited for the calling of the meeting until the meeting is called. 50 V. c. 19, s. 8.

Meeting of
creditors by
request of
majority
thereof.

Judge to give
directions in
case creditors
do not attend.

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 16 of this Act, or fail to give directions with reference to the disposal of the estate, the Judge of the County Court may give all necessary directions in that behalf. 50 V. c. 19, s. 11.

Voting at
meeting.

18. At any meeting of creditors the creditors may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim stating the amount and nature thereof. 48 V. c. 26, s. 17.

Scale of votes.

19.—(1) Subject to the provisions of section 6, all questions discussed at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

For every claim of or over \$100, and not exceeding \$200..	1 vote.
“ “ “ \$200 “ “ \$500..	2 votes.
“ “ “ \$500 “ “ \$1000..	3 votes.
“ additional \$1,000, or fraction thereof....	1 vote.

(2) No person shall be entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable.

(3) In case of a tie the assignee, or if there are two assignees, then the assignee appointed by the creditors, or by the Judge, if none has been appointed by the creditors, shall have a casting vote. 48 V. c. 26, s. 18 (1-3).

(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof; and if such security is on the estate of the debtor, or on the estate of a third party for whom such debtor is only secondarily liable, he shall put a specified value thereon and the assignee under the authority of the creditors may either consent to the right of the creditor to rank for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the assignee has realized such security; and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect of the estate. 48 V. c. 26, s. 18 (4); 50 V. c. 19, s. 5.

(5) If a creditor holds a claim based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the party

primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend and revalue his claim 48 V. c. 26, s. 18 (5).

20.—(1) Every person claiming to be entitled to rank on the estate assigned shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits of. 48 V. c. 26, s. 19 (1). Proof of claim.

(2) In case a person claiming to be entitled to rank on the estate assigned, does not within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections of this Act, the Judge of the County Court of the county wherein the debtor at the time of making the assignment resided or carried on business, may, upon a summary application by the assignee or by any other person interested in the debtor's estate (of which application at least three days' notice shall be given to the person alleged to have made default in proving a claim as aforesaid), order that unless the claim be proved to the satisfaction of the Judge within a time to be limited by the order, the person so making default shall no longer be deemed a creditor of the estate assigned, and shall be wholly barred of any right to share in the proceeds thereof; and if the claim is not so proved within the time so limited, or within such further time as the said Judge may by subsequent order allow, the same shall be wholly barred, and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the debtor therefor. 50 V. c. 19, s. 6, *part*.

(3) The preceding sub-section is not intended to interfere with the protection afforded to assignees, by section 36 of *The Act respecting Trustees and Executors, and the Administration of Estates*. 50 V. c. 19, s. 6, *part*. Rev. Stat. c. 110.

(4) A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. 48 V. c. 26, s. 19 (2).

(5) At any time after the assignee receives from any person claiming to be entitled to rank on the estate, proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant. Within thirty days after the receipt of the notice, or such further time as a Judge of the County Court of the county in which the assignment is registered may on application allow, an action shall be brought by the claimant against the assignee to establish the claim, and a

copy of the writ in the action served on the assignee; and in default of such action being brought and writ served within the time aforesaid, the claim to rank on the estate shall be forever barred.

- (a) The notice by the assignee shall contain the name and place of business of one of the solicitors of the Supreme Court of Judicature for Ontario, upon whom service of the writ may be made; and service upon such solicitor shall be deemed sufficient service of the writ. 50 V. c. 19, s. 7.

Accounts to be prepared by assignee.

21. Upon the expiration of one month from the first meeting of creditors, or as soon as may be after the expiration of such period and afterwards from time to time at intervals of not more than three months, the assignee shall prepare and keep constantly accessible to the creditors accounts and statements of his doings as such assignee, and of the position of the estate; and he shall declare dividends of the estate whenever the amount of money in his hands will justify a division thereof, and also whenever he is required by the inspectors. 49 V. c. 25, s. 6.

Notice of dividend sheet.

22. So soon as a dividend sheet is prepared, notice thereof shall be given by letter posted to each creditor, inclosing an abstract of receipts and disbursements, shewing what interest has been received by him for moneys in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor; and after the expiry of eight days from the day of mailing such notice, abstract and dividend sheet as aforesaid, dividends on all claims not objected to within that period shall be paid. 49 V. c. 25, s. 7.

Set off.

23. The law of set-off shall apply to all claims made against the estate and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions of this or any other Act respecting frauds or fraudulent preferences. 48 V. c. 26, s. 20.

Affidavits.

24. Any affidavit authorized, or required, under this Act may be sworn before any person authorized to administer affidavits in the High Court, or before a Justice of the Peace, or, if sworn out of Ontario, before a Notary Public. 48 V. c. 26, s. 21.

CHAPTER 125.

An Act respecting Mortgages and Sales of Personal Property.

CHATTEL MORTGAGES WHERE POSSESSION OF GOODS UNCHANGED :	MODE OF REGISTRATION, ss. 8, 9.
Affidavits as to indebtedness, ss. 1, 2.	WHEN MORTGAGED GOODS REMOVED TO ANOTHER COUNTY, s. 10.
To be registered or void as against creditors, ss. 1-4.	RENEWAL OF MORTGAGES, ss. 11-15.
SALES OF GOODS WHERE POSSESSION UNCHANGED :	CERTIFICATE OF CLERK TO BE EVIDENCE OF REGISTRATION, s. 16.
To be registered or void as against creditors, s. 5.	DISCHARGE OF MORTGAGES, ss. 17-20.
MORTGAGES OF GOODS TO SECURE ADVANCES, s. 6.	MORTGAGES, &c., IN UNORGANIZED DISTRICTS, ss. 21-23.
AFFIDAVIT OF BONA FIDES UNDER SS. 5 AND 6 MAY BE MADE BY ONE OF TWO OR MORE MORTGAGEES, &c., s. 7.	FEES, s. 24.
	REGISTRATION WHERE TIME EXPIRES ON A DAY ON WHICH OFFICES ARE CLOSED, s. 25.
	AUTHORITY TO TAKE OR RENEW MORTGAGES MAY BE GENERAL, s. 26.
	MISCELLANEOUS, ss. 27-29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

REGISTRATION OF CHATTEL MORTGAGES AND SALES OF GOODS
WHERE POSSESSION IS UNCHANGED.

1. Every mortgage, or conveyance intended to operate as a mortgage, of goods and chattels, made in Ontario, which is not accompanied by an immediate delivery, and an actual and continued change of possession of the things mortgaged, or a true copy thereof, shall, within five days from the execution thereof be registered as hereinafter provided, together with the affidavit of a witness thereto, of the due execution of such mortgage or conveyance, or of the due execution of the mortgage or conveyance of which the copy filed purports to be a copy, and also with the affidavit of the mortgagee or of one of several mortgagees, or of the agent of the mortgagee or mortgagees, if such agent is aware of all the circumstances connected therewith and is properly authorized in writing to take such mortgage (in which case a copy of such authority shall be registered therewith.) R. S. O. 1877, c. 119, s. 1.

2. Such last mentioned affidavit, whether of the mortgagee or his agent, shall state that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned

Mortgages of goods not attended with change of possession, shall be registered, or else be void as against creditors, etc., of the mortgagor, with an affidavit, etc.

Contents of affidavit.

in the mortgage, that it was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him. R. S. O. 1877, c. 119, s. 2.

When mortgage to take effect.

3. Every such mortgage or conveyance shall operate and take effect upon, from and after the day and time of the execution thereof. R. S. O. 1877, c. 119, s. 3.

Unless registered, mortgage void.

4. In case such mortgage or conveyance and affidavits are not registered as hereinbefore provided, the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor, and against subsequent purchasers or mortgagees in good faith-for valuable consideration. R. S. O. 1877, c. 119, s. 4.

Sales of goods not attended with delivery shall be registered, or else be void as against creditors, etc., of the vendor.

5. Every sale of goods and chattels, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and shall be accompanied by an affidavit of a witness thereto of the due execution thereof, and an affidavit of the bargainee, or his agent duly authorized in writing to take the conveyance a copy of which authority shall be attached to the conveyance, that the sale is *bona fide* and for good consideration, as set forth in the said conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, and the conveyance and affidavits shall be registered as hereinafter provided, within five days from the executing thereof, otherwise the sale shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. R. S. O. 1877, c. 119, s. 5.

Mortgages of goods to secure advances or to indemnify endorsers, etc., to be valid if duly registered.

6. In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement, and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances, or in case of a mortgage of goods and chattels for securing the mortgagee against the endorsement of any bills or promissory notes or any other liability by him incurred for the mortgagor, not extending for a longer period than one year from the date of the mortgage, and in case the mortgage is executed in good faith, and sets forth fully by recital or otherwise, the terms, nature and effect of the agreement, and the amount of liability intended to be created, and in case the mortgage is accompanied by the affidavit of a witness thereto of the due execution thereof, and by the affidavit of the

mortgagee, or in case the agreement has been entered into and the mortgage taken by an agent duly authorized in writing to make such agreement and to take such mortgage, and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit, whether of the mortgagee or his agent, stating that the mortgage truly sets forth the agreement entered into between the parties thereto, and truly states the extent of the liability intended to be created by the agreement and covered by such mortgage, and that the mortgage is executed in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the payment of the amount of his liability for the mortgagor, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the mortgagor, and in case the mortgage is registered as hereinafter provided, the same shall be as valid and binding as mortgages mentioned in the preceding sections of this Act. R. S. O. 1877, c. 119, s. 6.

7. The affidavit of *bona fides* required by the preceding two sections may be made by one of two or more bargainees or mortgagees. 41 V. c. 8, s. 12, *part*. Affidavit under ss. 5 & 6.

8. The instruments mentioned in the preceding sections shall be registered in the office of the Clerk of the County Court of the county or union of counties where the property so mortgaged or sold is at the time of the execution of such instrument; and such clerks shall file all such instruments presented to them respectively for that purpose, and shall endorse thereon the time of receiving the same in their respective offices, and the same shall be kept there for the inspection of all persons interested therein, or intending or desiring to acquire any interest in all or any portion of the property covered thereby. R. S. O. 1877, c. 119, s. 7; 43 V. c. 15, s. 1. Chattel mortgages to be registered in the office of County Clerk.

[*As to registration of Chattel Mortgages in Haliburton, See* Cap. 6, s. 23.]

9. The said clerks respectively shall number every such instrument or copy filed in their offices, and shall enter in alphabetical order in books to be provided by them, the names of all the parties to such instruments, with the numbers endorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. R. S. O. 1877, c. 119, s. 8. Clerk to enter the same.

10. In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the county or union of counties in which they were at the time of the execution of the mortgage, to another county or union of counties before the How to proceed if goods mortgaged are removed to another County.

payment and discharge of the mortgage, a certified copy of the mortgage, under the hand of the clerk of the County Court in whose office it was first registered, and under the seal of the Court, and of the affidavits and documents and instruments relating thereto filed in such office, shall be filed with the clerk of the County Court of the county or union of counties to which the goods and chattels are removed, within two months from such removal, otherwise the said goods and chattels shall be liable to seizure and sale under execution, and in such case the mortgage shall be null and void as against subsequent purchasers and mortgagees in good faith for valuable consideration as if never executed. R. S. O. 1877, c. 119, s. 9.

RENEWAL OF MORTGAGES.

Statement to be filed yearly or mortgage invalidated as against creditors.

11. Every mortgage, or copy thereof, filed in pursuance of this Act, shall cease to be valid, as against the creditors of the persons making the same and against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the filing thereof, unless within thirty days next preceding the expiration of the said term of one year, a statement exhibiting the interest of the mortgagee, his executors, administrators or other assigns, in the property claimed by virtue thereof, and shewing the amount still due for principal and interest thereon, and shewing all payments made on account thereof, is again filed in the office of the clerk of the County Court of the county, or union of counties, wherein the goods and chattels are then situate, with an affidavit of the mortgagee, or one of several mortgagees, or of the assignee or one of several assignees, or of the agent of the mortgagee or assignee, or mortgagees or assignees (as the case may be,) duly authorized in writing, for that purpose, (a copy of which authority shall be filed therewith,) that the statement is true, and that the mortgage has not been kept on foot for any fraudulent purpose. 43 V. c. 15, s. 2.

Form of statement and affidavit.

12. The statement and affidavit mentioned in the next preceding section may be in the form given in the schedule B to this Act, or to the like effect. 43 V. c. 15, s. 3.

Mode of filing and entering affidavit and statement.

13. The statement and affidavit shall be deemed one instrument and be filed and entered in like manner as the instruments in this Act mentioned are, by section 9, required to be filed and entered, and the like fees shall be payable for filing and entering the same as are now payable for filing and entering such instruments. 43 V. c. 15, s. 4.

Yearly statement to be filed.

14. Another statement in accordance with the provisions of section 11 of this Act, duly verified as required by that section, shall be filed in the office of the clerk of the County Court of the county wherein the goods and chattels described in the

mortgage are then situate, within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said section 11, or such mortgage, or copy thereof, shall cease to be valid as against the creditors of the persons making the same, and as against purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another statement as aforesaid, duly verified, shall be filed within thirty days next preceding the expiration of one year from the day of the filing of the former statement, or such mortgage, or copy thereof, shall cease to be valid as aforesaid. 44 V. c. 12, s. 1.

15. The affidavit required by section 11 may be made by any next of kin, executor or administrator of any deceased mortgagee, or by any assignee claiming by or through any mortgagee, or any next of kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next of kin, executor or administrator of any such assignee, the assignment, or the several assignments through which the assignee claims shall be filed in the office in which the mortgage is filed, at or before the time of such refileing by the assignee, next of kin, executor or administrator of the assignee. R. S. O. 1877, c. 119, s. 11.

Affidavits, by whom to be made.

EVIDENCE OF REGISTRATION.

16. A copy of such original instrument or of a copy thereof, so filed as aforesaid, including any statement made in pursuance of this Act, certified by the clerk in whose office the same has been filed, under the seal of the Court shall be received in evidence in all Courts, but only of the fact that the instruments or copy and statement were received and filed according to the endorsement of the clerk thereon, and of no other fact; and in all cases the original endorsement by the clerk made in pursuance of this Act, upon any such instrument or copy, shall be received in evidence only of the fact stated in the endorsement. R. S. O. 1877, c. 119, s. 12.

The Clerk's certificate to be evidence of registration.

DISCHARGE OF MORTGAGES.

17. Where any mortgage of goods and chattels is registered under the provisions of this Act, such mortgage may be discharged, by the filing, in the office in which the same is registered, of a certificate signed by the mortgagee, his executors or administrators, in the form given in the Schedule A hereto, or to the like effect. R. S. O. 1877, c. 119, s. 13.

Certificates for discharging chattel mortgages.

18. The officer with whom the chattel mortgage is filed, upon receiving such certificate, duly proved by the affidavit of a subscribing witness, shall, at each place where the number of the

Entering certificates of discharge.

mortgage has been entered, with the name of any of the parties thereto, in the book kept under section 9 of this Act, or wherever otherwise in the said book the said mortgage has been entered, write the words, "*Discharged by certificate number* (stating the number of the certificate)," and to the said entry the officer shall affix his name, and he shall also endorse the fact of the discharge upon the instrument discharged, and shall affix his name to the endorsement. R. S. O. 1877, c. 119, s. 14.

Entries or renewal.

19. Where a mortgage has been renewed under section 11 of this Act, the endorsement or entries required by the preceding section to be made need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in the said book. 43 V. c. 15, s. 5.

Entry of assignment of mortgages.

20. In case a registered chattel mortgage has been assigned the assignment may, upon proof by the affidavit of a subscribing witness, be numbered and entered in the alphabetical chattel mortgage book, in the same manner as a chattel mortgage, and the proceedings authorized by the next preceding three sections of this Act may and shall be had, upon a certificate of the assignee, proved in manner aforesaid. R. S. O. 1877, c. 119, s. 16.

MORTGAGES AND SALES OF CHATTELS IN UNORGANIZED DISTRICTS.

Registration of chattel mortgages in Provisional Judicial Districts.

21. Where the personal property mortgaged or sold is within a Provisional Judicial District, the provisions of this Act shall apply to such instrument with the substitution of "the clerk of the District Court" for "the clerk of the County Court;" and with the substitution of "ten days" for "five days" as the time within which the instrument or a copy thereof shall be registered; but this section shall not apply to any portion of a Territorial District which forms part of a Provisional Judicial District. R. S. O. 1877, c. 119, s. 17; 43 V. c. 15, s. 7.

In Territorial Districts.

22. Where the personal property mortgaged or sold is within a Territorial District, the provisions of this Act shall apply to such instrument, with the substitution of "the clerk of the first Division Court of the District" for the "clerk of the County Court," and with the substitution of "ten days" for "five days," as the time within which the instrument or a copy thereof shall be registered. R. S. O. 1877, c. 119, s. 18; 43 V. c. 15, s. 8.

In Temporary Judicial District of Nipissing.

23. Where the personal property mortgaged or sold is within the Temporary Judicial District of Nipissing the provisions of this Act shall apply to such instrument, with the substitution

of "the clerk of the County Court of the County of Renfrew" for "the clerk of the County Court," and with the substitution of "twenty days" for "five days," as the time within which the instrument or a copy thereof shall be registered. R. S. O. 1877, c. 119, s. 19; 43 V. c. 15, s. 9.

FEES.

24. For services under this Act the clerks aforesaid shall be entitled to receive the following fees: Fees for services.

1. For filing each instrument and affidavit, and for entering the same in a book as aforesaid, fifty cents.

2. For filing assignment of each instrument and for making all proper endorsements in connection therewith, fifty cents. 44 V. c. 8, s. 2; 48 V. c. 27, s. 2; 49 V. c. 16, s. 43.

3. For filing certificate of discharge of each instrument and for making all proper entries and endorsements connected therewith, twenty-five cents;

4. For searching for each paper, ten cents; and

5. For copies of any document with certificate prepared, filed under this Act, ten cents for every hundred words. R. S. O. 1877, c. 119, s. 22, (3-5); 48 V. c. 27, s. 2.

MISCELLANEOUS.

25. Where, under any of the provisions of this Act the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit or other paper expires on a Sunday or other day on which the office in which the registering or filing is to be made or done is closed, and by reason thereof the filing or registering cannot be made or done on that day, the registering or filing shall, so far as regards the time of doing or making the same, be held to be duly done or made if done or made on the day on which the office shall next be open. 48 V. c. 27, s. 1. Registration where time limited expires on a day on which offices are closed.

26. An authority for the purpose of taking or renewing a mortgage or conveyance under the provisions of this Act may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee. 43 V. c. 15, s. 6. An authority to take or renew mortgages may be a general one.

27. All the instruments mentioned in this Act, whether for the sale or mortgage of goods and chattels, shall contain such sufficient and full description thereof that the same may be thereby readily and easily known and distinguished. R. S. O. 1877, c. 119, s. 23. The property to be well described.

Who to administer the affidavits.

28. All affidavits and affirmations required by this Act shall be taken and administered by any Judge, Notary Public, or Commissioner or other person in or out of the Province authorized to take affidavits in and for the High Court or by a Justice of the Peace, and the sum of twenty cents shall be paid for every oath thus administered. R. S. O. 1877, c. 119, s. 24; 41 V. c. 8, s. 12 (2); 48 V. c. 16, s. 1.

Act not to apply to mortgages of vessels duly registered.

29. This Act does not apply to mortgages of vessels registered under the provisions of any Act in that behalf. R. S. O. 1877, c. 119, s. 25.

SCHEDULE A.

(Section 17.)

FORM OF DISCHARGE OF MORTGAGE.

To the Clerk of the Court of the of

I, A. B., of do certify that
has satisfied all money due on, or to grow due on a certain chattel mortgage made by to , which mortgage bears date the day of , A.D., and was registered (or in case the mortgage has been renewed was re-registered,) in the office of the Clerk of the Court of the of , on the , A.D., as No. (here mention the day and date of registration of each assignment thereof, and the names of the parties, or mention that such mortgage has not been assigned, as the fact may be); and that I am the person entitled by law to receive the money, and that such mortgage is therefore discharged.

Witness my hand, this day of A.D.

One witness stating residence }
and occupation. }

A. B.

R. S. O. 1877, c. 119, Sched.

SCHEDULE B.

(Section 12.)

Statement exhibiting the interest of C. D. in the property mentioned in a Chattel Mortgage dated the day of 18, made between A. B., of of the one part, and C. D., of , of the other part, and filed in the office of the Clerk

of the Court of the of , on the
day of , 18 , and of the amount due for principal and
interest thereon, and of all payments made on account thereof.

The said *C. D.*, is still the mortgagee of the said property, and has not
assigned the said mortgage (*or* the said *E. F.* is the assignee of the said
Mortgage by virtue of an assignment thereof from the said *C. D.* to him,
dated the day of , 18 ,) (*or as the case may be*).

No payments have been made on account of the said Mortgage (*or* the
following payments, and no other, have been made on account of the said
Mortgage :

1886, January 1, Cash received..... \$100 00)

The amount still due for principal and interest on the said Mortgage is the
sum of \$ computed as follows : [*here give the computation.*]
C. D.

County of } I, of the
To wit : } of in the County
of the Mortgagee named in the Chattel Mortgage men-
tioned in the foregoing (*or* annexed) statement (*or* assignee of
the Mortgagee named in the Chattel Mortgage mentioned in the foregoing
[*or* annexed] statement,) (*as the case may be*), make oath and say :

1. That the foregoing (*or* annexed) statement is true.
2. That the Chattel Mortgage mentioned in the said statement has not
been kept on foot for any fraudulent purpose.

Sworn before me at the }
of in the }
County of this }
day of 18 . }

43 V. c. 15, *Sched.*

CHAPTER 126.

An Act respecting Liens of Mechanics, and others.

SHORT TITLE, s. 1.	Failure to pay amount found due, s. 13.
INTERPRETATION, s. 2.	
WHO ENTITLED TO LIEN, ss. 3, 4, 6.	ARBITRATION RESPECTING SUB-CONTRACTOR'S CLAIM, s. 14.
PROPERTY UPON WHICH LIEN TO ATTACH, ss. 5, 6 (2).	PROPERTY NOT TO BE REMOVED, s. 15.
OWNER MAY RETAIN 10 PER CENT. OF PRICE, s. 7.	REGISTRATION OF CLAIM, ss. 16, 19.
SUB-CONTRACTOR'S CLAIM, s. 8.	Time for registering claims, ss. 20, 21.
PAYMENT OF 90 PER CENT. OF CONTRACT PRICE AUTHORIZED, s. 9.	EXPIRY OF LIEN, ss. 22, 24.
EXTENT OF OWNER'S LIABILITY, s. 10.	DEATH OF LIEN HOLDER, s. 25.
CLAIMS AGAINST LIEN HOLDERS :	DISCHARGE OF LIENS, ss. 26, 27.
May be paid by owner of premises, s. 11.	ENFORCING LIEN BY ACTION, ss. 28, 30.
Arbitration, respecting, s. 12.	EXEMPTION OF MATERIALS FROM EXECUTION, s. 31.
	SALE OF CHATTELS BY PERSON ENTITLED TO LIEN, s. 32.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

- Short title: 1. This Act may be cited as "*The Mechanics' Lien Act.*" R. S. O. 1877, c. 120, s. 1.
- Interpretation. 2. Where the following words occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—
- "Contractor." 1. "Contractor" shall mean a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Act;
- "Sub-contractor." 2. "Sub-contractor" shall mean a person not contracting with or employed directly by the owner for the purposes aforesaid, but contracting with or employed by the "Contractor," or under him by another "Sub-contractor;"
- "Owner." 3. "Owner" shall extend to and include a person having any estate or interest in the lands upon or in respect of which the work is done, or materials or machinery are placed or furnished, at whose request and upon whose credit or on whose behalf or with whose privity or consent or for whose direct benefit any such work is done, or materials or

machinery placed or furnished, and all persons claiming under him, whose rights are acquired after the work in respect of which the lien is claimed is commenced, or the materials or machinery furnished have been commenced to be furnished. R. S. O. 1877, c. 120, s. 2.

3. No agreement shall be held to deprive anyone otherwise entitled to a lien under this Act, and not a party to the agreement, of the benefit of the lien, but the lien shall attach, notwithstanding such agreement. 47 V. c. 18, s. 1, *part*. Persons not deprived of lien by agreement unless a party thereto.

4. Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, miner, labourer, contractor or other person, doing work upon, or furnishing materials to be used in, the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials, upon the building, erection or mine, and the lands occupied thereby or enjoyed therewith; limited in amount to the sum justly due to the person entitled to the lien. R. S. O. 1877, c. 120, s. 3; 47 V. c. 18, s. 1, *part*. Mechanics and others to have liens for work done, etc.

5.—The lien shall attach upon the estate and interest of the owner, as defined by this Act, in the building, erection or mine upon or in respect of which the work is done or the materials or machinery placed or furnished, and the land occupied thereby or enjoyed therewith. Upon what property the lien shall attach.

(2) In cases where the estate or interest charged by the lien is leasehold, the fee simple may also, with the consent of the owner thereof, be subject to said charge, provided such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof, and duly verified. R. S. O. 1877, c. 120, s. 6; 47 V. c. 18, s. 5. When the estate charged is leasehold, the fee may be charged in certain cases.

(3) In case the land upon or in respect of which any work as aforesaid is executed, or labour performed, or upon which materials or machinery are placed, is incumbered by a prior mortgage or other charge, and the selling value of the land is increased by the construction, alteration or repairs of the building, or by the erection or placing of the materials or machinery, the lien under this Act shall be entitled to rank upon the increased value in priority to the mortgage or other charge. R. S. O. 1877, c. 120, s. 7; 45 V. c. 15, s. 13. Mortgaged land.

6.—(1) Without prejudice to any lien which he may have under the preceding sections, every mechanic, labourer, or other person, who performs labour for wages upon the construction, alteration, or repairs of any building or erection, or in erecting, Lien for 30 days' wages.

or placing machinery of any kind in, upon, or in connection with, any building, erection, or mine, shall to the extent of the interest of the owner have, upon the building, erection, or mine, and the land occupied thereby or enjoyed therewith, a lien for such wages, not exceeding the wages of thirty days, or a balance equal to his wages for thirty days.

Property
affected.

(2) The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done upon the estate or interest of the wife in such property as well as upon that of her husband. 45 V. c. 15, ss. 2, 3.

Owner may
retain 10 per
cent. of con-
tract price.

7. In all cases, the owner shall, in the absence of a stipulation to the contrary, be entitled to retain, for a period of thirty days after the completion of the contract, ten per centum of the price to be paid to the contractor. 45 V. c. 15, s. 5.

Claim by sub-
contractor
limited.

8. In case the lien is claimed by a sub-contractor, the amount which may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor (as the case may be) for whom the work has been done, or the materials or machinery have been furnished or placed. R. S. O. 1877, c. 120, s. 6.

Certain pay-
ments to dis-
charge the
lien.

9.—(1) All payments, up to ninety per centum of the price to be paid for the work, machinery or materials, as defined by section 4 of this Act, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor or sub-contractor (as the case may be), of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Act, but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Act. 41 V. c. 17, s. 1.

Lien to extent
of 10 per cent.
when a charge.

(2) A lien shall, in addition to all other rights or remedies given by this Act, also, operate as a charge to the extent of ten per centum of the price to be paid by the owner, for the work, machinery or materials as defined by section 4 of this Act up to ten days after the completion of the work, or of the delivery of the materials in respect of which such lien exists, and no longer, unless notice in writing be given as herein provided. 41 V. c. 17, s. 2.

Priority of
lien for 30
days' wages.

(3) A lien for wages for thirty days or for a balance equal to the wages for thirty days, shall, to the extent of the said ten per cent. of the price to be paid to the contractor, have priority over all other liens under this Act, and over any claim

by the owner against the contractor for, or in consequence of, the failure of the latter to complete his contract. 45 V. c. 15, s. 4.

10. Save as herein provided, the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor. R. S. O. 1877, c. 120, s. 6, *part*; 45 V. c. 15, s. 4. Extent of owner's liability.

11. All persons furnishing material to or doing labour for the person having a lien under this Act, in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within thirty days after such material is furnished or labour performed, of an unpaid account or demand against such lien-holder, for such material or labour, shall be entitled, subject to the provisions of sections 6 and 9, to a charge therefor *pro rata* upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien. R. S. O. 1877, c. 120, s. 8. Notice to owner of claims against lien-holders.

12. In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under the preceding section, the same shall be first determined by action in the proper Court in that behalf, or by arbitration, in manner mentioned in section 14 at the option of the person having the unpaid account or demand against the lien-holder; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien. R. S. O. 1877, c. 120, s. 9. Disputes as to claims against lien-holders.

13. In case the person primarily liable to the person giving such notice as mentioned in section 11, fails to pay the amount awarded within ten days after the award is made, the owner, contractor or sub-contractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment if made after an award (or if made without any arbitration having been previously had or dispute existing, then, if the debt in fact existed, and to the extent thereof) shall operate as a discharge *pro tanto* of the moneys so due as aforesaid to the person primarily liable. R. S. O. 1877, c. 120, s. 10. Failure to pay amount awarded.

14.—(1) In case a claim is made by a sub-contractor in respect of a lien to which he is entitled, and a dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration. Disputed claims of sub-contractors to be referred to arbitration.

Appointment of arbitrators. (2) One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed, and the third arbitrator shall be appointed by the two so chosen.

Decision to be final. (3) The decision of the arbitrators or a majority of them shall be final and conclusive. R. S. O. 1877, c. 120, s. 18.

Refusal to appoint arbitrator. (4) In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitrator, or if the arbitrators appointed fail to agree upon a third, the appointment may be made by a County Judge of the county in which the lands in respect of which the lien is claimed are situate. R. S. O. 1877, c. 120, s. 19.

Property affected by the lien not to be removed. **15.** During the continuance of a lien, no portion of the property or machinery affected thereby, shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the County Court or the Judge thereof, or the High Court respectively, according as the claim is under or over the sum of \$200. R. S. O. 1877, c. 120, s. 22.

Claim may be registered. **16.**—(1) A claim of lien applicable to the case, may be registered in the registry office of the registry division in which the land is situate, and shall state—

- (a) The name and residence of the claimant and of the owner of the property to be charged, and of the person for whom and upon whose credit the work is done or materials or machinery furnished, and the time or period within which the same was, or was to be, done or furnished;
- (b) The work done or materials or machinery furnished;
- (c) The sum claimed as due, or to become due;
- (d) The description of the land to be charged;
- (e) The date of expiry of the period of credit agreed to by the lien-holder for payment for his work, materials or machinery, where credit has been given.

Affidavit of verification may be made by agent or assignee. (2) The claim may be in one of the forms given in the schedule in this Act, and shall be verified by the affidavit of the claimant, or of his agent or assignee having full knowledge of the matters required to be verified, and the affidavit of an agent or assignee shall state he has such knowledge. R. S. O. 1877, c. 120, s. 4 (1, 2); 47 V. c. 18, ss. 2, 3.

Claims for wages may be combined. **17.** A claim for wages may include the claims of any number of mechanics, labourers, or other persons aforesaid, who may choose to unite therein. In such case each claimant shall verify his claim by his affidavit, but need not repeat the facts set out in the claim; and an affidavit substantially in accordance with Form 4 in the schedule to this Act shall be sufficient. 45 V. c. 15, ss. 8, 10.

18.—(1) The registrar, upon payment of his fee, shall register the claim, so that the same may appear as an incumbrance against the land therein described. R. S. O. 1877, c. 120, s. 5; 47 V. c. 18, s. 4, *part*. Registration of claims.

(2) The fee for registration shall be twenty-five cents; if several persons join in one claim, the registrar shall have a further fee of ten cents for every person after the first. 45 V. c. 15, s. 11. Fee.

(3) The registrar shall not be bound to copy in any registry book any claim or affidavit, but he shall number each claim, and shall insert in the alphabetical and abstract indexes the like particulars as in other cases: he may describe the nature of the instrument as "Mechanics' Lien." 45 V. c. 15, s. 11. Mode of registration.

19. Where a claim is so registered, the person entitled to the lien shall be deemed a purchaser *pro tanto*, and within the provisions of *The Registry Act*, but except as herein otherwise provided, *The Registry Act* shall not apply to any lien arising under this Act. R. S. O. 1877, c. 120, ss. 4 (3), 26; 47 V. c. 18, ss. 2, 3. Registry Act to apply.
Rev. Stat. c. 114.

20.—(1) Where the lien is for wages, under sections 6 or 9, the claim may be registered, Time for registration of claim for wages.

(a) At any time within thirty days after the last day's labour for which the wages are payable, or

(b) At any time within thirty days after the completion of the construction, alteration or repair of the building or erection, or after the erecting or placing of the machinery, in or towards which, respectively, the labour was performed and the wages earned, but so that the whole period shall not exceed sixty days from the last days labour aforesaid.

(2) Such lien shall not be entitled to the benefit of the provisions of sections 6 and 9, after the said respective periods, unless the same is duly registered before the expiration of the said periods so limited. 45 V. c. 15, s. 6.

(3) Such lien shall have the same priority for all purposes after as before registration. 50 V. c. 20, s. 1.

21. In other cases the claim of lien may be registered before or during the progress of the work, or within thirty days from the completion thereof, or from the supplying or placing the machinery. 45 V. c. 15, s. 7. Time for registering claim not arising under s. 6.

22. Every lien which has not been duly registered under the provisions of this Act shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof, unless in the meantime proceedings are instituted to When unregistered lien shall cease.

realize the claim under the provisions of this Act, and a certificate thereof (which may be granted by the Court or Judge before whom or in which the proceedings are instituted), is duly registered in the registry office of the registry division wherein the lands in respect of which the lien is claimed are situate. R. S. O. 1877, c. 120, s. 20.

When registered lien shall cease.

23. Every lien which has been duly registered under the provisions of this Act shall absolutely cease to exist after the expiration of ninety days after the work has been completed, or materials or machinery furnished, or wages earned, or the expiry of the period of credit, where such period is mentioned in the claim of lien filed, unless in the meantime proceedings are instituted to realize the claim under the provisions of this Act, and a certificate thereof (which may be granted by the Court or Judge before whom or in which the proceedings are instituted), is duly registered in the registry office of the registry division wherein the lands in respect of which the lien is claimed are situate. R. S. O. 1877, c. 120, s. 21.

When lien to cease.

24. If there is no period of credit, or if the date of expiry of the period of credit is not stated in the claim so filed, the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished, unless in the meantime proceedings shall have been instituted pursuant to section 23 of this Act. 47 V. c. 18, s. 2.

Death of lien-holder.

25. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives: and the right of a lien-holder may be assigned by any instrument in writing. R. S. O. 1877, c. 120, s. 16.

Discharge of liens.

26. A lien may be discharged by a receipt signed by the claimant, or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and filed; such receipt shall be numbered and entered by the registrar, like other instruments, but need not be copied in any book; the fees shall be the same as for registering a claim or lien. 45 V. c. 15, s. 15; 47 V. c. 18, s. 4.

Cost of registering discharge.

27. Where there is a contract for the execution of the work as hereinbefore mentioned, the registration of all discharges of liens shall be at the cost of the contractor, unless a Court or Judge otherwise orders. 45 V. c. 15, s. 16; 47 V. c. 18, s. 4.

Enforcement of lien in Division and County Court.

28.—(1) Where the amount of the claims in respect of any lien is within the jurisdiction of the County or Division Courts respectively, proceedings to recover the same, according to the usual procedure of the said Court by judgment and execution may be taken in the proper Division Court or in the County Court of the county in which the land charged is situate; or

proceedings may be taken before the Judge of the said Courts, who may proceed in a summary manner by summons and order, and may take accounts and make requisite enquiries, and in default of payment may direct the sale of the estate and interest charged and such further proceedings may be taken as the Judge directs.

(2) Any conveyance under the seal of the County Court Judge shall be effectual to pass the estate or interest sold. Conveyance by County Court Judge.

(3) The fees and costs in all proceedings taken under this section shall be such as are payable in respect of the like or similar matters according to the ordinary procedure of the said Courts respectively. R. S. O. 1877, c. 120, s. 12, Fees.

29. In cases other than those specified in the preceding section the lien may be realized in the High Court according to the ordinary procedure of that Court. R. S. O. 1877, c. 120, s. 13. Enforcing lien in High Court.

30.—(1) Any number of lien-holders may join in one action and any action brought by a lien-holder shall be taken to be brought on behalf of all the lien-holders of the same class who shall have registered their liens before or within 30 days after the commencement of the action, or who shall within the said 30 days file in the proper office of the Court from which the writ issued a statement, entitled in or referring to the said action, of their respective claims. Action by lien-holder to be for joint benefit.

(2) In the event of the death of the plaintiff, or his refusal or neglect to proceed, any other lien-holder of the same class who has registered his lien or filed his claim in the manner and within the time above limited for that purpose may be allowed to prosecute the action on such terms as may be deemed just and reasonable. 47 V. c. 18, s. 6. Prosecution of claim when plaintiff dies, etc.

(3) In case of a sale of the estate and interest charged with the lien, the Court or Judge may direct the sale to take place at any time after one month from the recovery of judgment, and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof. 45 V. c. 15, s. 12. Time when sale may be made.

(4) The said Court or Judge may also direct the sale of any machinery and authorize its removal. R. S. O. 1877, c. 120, s. 14. The Court may order sale.

(5) Where judgment is given in favour of a lien, the Court or Judge may add to the judgment the costs of and incidental to registering the lien, as well as the costs of the action. 45 V. c. 15, s. 14. Costs.

(6) Where there are several liens under this Act against the same property, each class of the lien-holders shall, subject to the provisions of sections 5, 9 and 11, rank *pari passu* for their several amounts, and the proceeds at any sale shall Several liens.

subject as aforesaid, be distributed amongst them *pro rata*, according to their several classes and rights, and they shall respectively be entitled to execution for any balance due to them respectively after said distribution. R. S. O. 1877, c. 120, s. 17.

Security may be given in lieu of lien.

(7) Upon applications to the County Court, in claims under \$200, and to the High Court in other cases, the Court or Judge may receive security or payment into Court in lieu of the amount of the claim, and may thereupon vacate the registry of the lien.

Registry may be annulled.

(8) The Court or Judge may annul the said registry upon any other ground. R. S. O. 1877, c. 120, s. 23.

Wrongful claim or refusal to discharge, costs.

(9) In any of the cases mentioned in sub-sections 7 and 8 the Court or Judge may proceed to hear and determine the matter of the said lien, and make such order as seems just, and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof, or without just cause claims a larger sum than is found by such Court or Judge to be due, the Court or Judge may order and adjudge him to pay costs to the other party. R. S. O. 1877, c. 120, s. 24; 47 V. c. 18, s. 7.

When materials used in the construction of buildings are not to be subject to execution.

31. Where any mechanic, artisan, machinist, builder, miner, contractor or any other person, has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine, at the request of and for some other person, such materials shall not be subject to execution or other process, to enforce any debt (other than for the purchase thereof) due by the person furnishing or procuring such materials, and whether the same have or have not been in whole or in part worked into or made part of such building or erection. R. S. O. 1877, c. 120, s. 25.

Mechanics entitled to lien on a chattel may sell the chattel if (after three months) payment is not made.

32.—(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement in its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law, to sell the chattel or thing in respect of which the lien exists, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in such municipality, then in a newspaper published nearest thereto, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last or known place of residence (if any) of the owner, if he be a resident of such municipality.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale, and shall upon application pay over any surplus to the person entitled thereto. 41 V. c. 17, s. 3.

SCHEDULE.

FORM 1.

CLAIM OF LIEN.

A. B. (name of claimant) of (here state residence of claimant,) (if so, as assignee of, stating name and residence of assignor) under the Mechanics' Lien Act claims a lien upon the estate of (here state the name and residence of owner of the land upon which the lien is claimed,) in the undermentioned land in respect of the following work [or materials] that is to say (here give a short description of the nature of the work done or materials furnished and for which the lien is claimed) which work was [or is to be] done [or materials were furnished] for (here state the name and residence of the person upon whose credit the work is done or materials furnished), on or before the day of

The amount claimed as due [or to become due] is the sum of \$

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

When credit has been given, insert: The said work was done [or materials were furnished] on credit, and the period of credit agreed to expired [or will expire] on the day of 18

Dated at this day of , A. D. 18

(*Signature of claimant*).

FORM 2.

CLAIM OF LIEN FOR WAGES.

A. B. (name of claimant) of (here state residence of claimant,) (if so, as assignee of, stating name and residence of assignor) under the Mechanics' Lien Act claims a lien upon the estate of (here state the name and residence of the owner of land upon which the lien is claimed) in the undermentioned land in respect of days' work performed thereon while in the employment of (here state the name and residence of the person upon whose credit the work was done) on or before the day of

The amount claimed as due is the sum of \$

The following is the description of land to be charged, (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at this day of

(*Signature of claimant*).

CHAPTER 127.

An Act respecting Wages.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Whenever an assignment is made of any real or personal property for the general benefit of creditors, the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same, the wages or salary of all persons in the employment of such person at the time of the making of such assignment, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claims. 48 V. c. 29, s. 1. Wages or salaries to have priority in assignments for benefit of creditors.

2. In distributing the assets of a company under the provisions of *The Joint Stock Companies' Winding up Act*, the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons in the employment of the company at the time of the making of the winding-up order, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims. 48 V. c. 29, s. 2. Wages or salaries to have priority in winding up proceedings under Rev. Stat. c. 183.

3. All persons in the employment of an execution debtor at the time of the entry of the notice mentioned in section 4 of *The Creditors' Relief Act*, or within one month before such entry, who shall become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of the said Act, shall be entitled to be paid out of such money the wages or salary due to them by the execution debtor, not exceeding three months' wages or salary, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. 48 V. c. 29, s. 3. Rights of persons entitled to share in distribution of property of execution debtors. Rev. Stat. c. 65, s. 4.

4. This Act shall apply to wages or salary whether the employment in respect of which the same shall be payable, be, by the day, by the week, by the job or piece or otherwise. 48 V. c. 29, s. 4. Wages or salary affected by this Act.

5. This Act is not intended to apply to an assignment made under the provisions of any Act of the Parliament of Canada relating to or respecting bankruptcy or insolvency. 48 V. c. 29, s. 5. Application of Act.

CHAPTER 128.

An Act respecting Contracts in relation to Goods entrusted to Agents.

INTERPRETATION, s. 1.	NOT TO AUTHORIZE LIEN, s. 8.
AGENT ENTRUSTED WITH GOODS TO BE DEEMED OWNER FOR CERTAIN PURPOSES, s. 2.	CONTRACTS WITH AGENTS MUST BE BONA FIDE, s. 9.
AGENT IN POSSESSION TO BE DEEMED ENTRUSTED, s. 3.	BONA FIDE TRANSACTIONS TO BIND OWNERS, s. 10.
AGENT IN POSSESSION OF DOCUMENT OF TITLE DEEMED ENTRUSTED WITH THE GOODS REPRESENTED BY IT, s. 4.	BONA FIDE LOAN OR ADVANCE WHEN DEEMED MADE ON SECURITY OF GOODS, s. 11.
CONTRACTS FOR PURCHASE, WHEN VALID, s. 5.	CONTRACT WITH SUB-AGENTS WHEN DEEMED MADE WITH AGENTS, s. 12.
CONTRACTS FOR LIEN, ETC., WHEN VALID, s. 6.	PAYMENTS WHEN DEEMED ADVANCES, s. 13.
PLEDGE OF DOCUMENT OF TITLE TO BE DEEMED PLEDGE OF GOODS REPRESENTED BY IT, s. 7.	CIVIL LIABILITY OF AGENT, ss. 14, 15.
ANTECEDENT DEBT DUE BY AGENT	OWNER MAY REDEEM GOODS PLEDGED BY AGENT, s. 16.
	REMEDY OF OWNER AGAINST ESTATE OF BANKRUPT AGENT, s. 17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Interpre-
tation.
1. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—
- “Person.” 1. “Person” shall include a body corporate or company as well as an individual;
- “Goods.” 2. “Goods” shall include all personal property of whatever nature or kind soever;
- “Shipped.” 3. “Shipped” shall mean the carriage of goods, whether by land or by water;
- “Document of title.” 4. “Document of title” shall include every bill of lading, warehouse-keeper’s or wharfinger’s receipt or order for delivery of goods, every bill of inspection of pot or pearl ashes and every other document used in the ordinary course of business, as proof of the possession or control of goods, or authorizing or purporting to authorize either by endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented. R. S. O. 1877, c. 121, s. 1.
- When and to
what extent
agents to be
deemed
owner.
2. Any agent entrusted with the possession of goods or of the documents of title thereto, shall be deemed the owner thereof for the following purposes, that is to say:

1. To make a sale or contract, as in section 5 mentioned;
2. To entitle the consignee of goods consigned by such agent to a lien thereon for any money or negotiable security advanced or given by him to or for the use of such agent, or received by the agent for the use of the consignee, in like manner as if such agent were the true owner of the goods;

3. To give validity to any contract or agreement by way of pledge, lien or security *bona fide* made with such agent, as well for an original loan, advance or payment made upon the security of the goods or documents, as for any further or continuing advance in respect thereof; and

4. To make such contract binding upon the owner of the goods and on all other persons interested therein, notwithstanding the person claiming such pledge or lien had notice that he was contracting only with an agent. R. S. O. 1877, c. 121, s. 2.

3. Every agent in possession of goods or documents of title as aforesaid shall, for the purposes of this Act, be taken to have been entrusted therewith by the owner, unless the contrary is shewn in evidence. Agent in possession to be deemed entrusted. R. S. O. 1877, c. 121, s. 3.

4. Any agent entrusted as aforesaid and possessed of any document of title, whether derived immediately from the owner of the goods or obtained by reason of the agent having been entrusted with the possession of the goods or of any document of title thereto, shall be deemed to be entrusted with the possession of the goods represented by such document of title. Agent possessed of document of title to be deemed entrusted with goods represented by it. R. S. O. 1877, c. 121, s. 4.

5. Any person may contract for the purchase of goods with any agent entrusted with the possession thereof, or to whom the same may be consigned, and may receive and pay for the same to such agent; and such contract and payment shall be binding upon the owner of the goods notwithstanding the purchaser has notice that he is contracting only with an agent. What contracts for purchase to be valid. R. S. O. 1877, c. 121, s. 5.

6. In case any person has a valid lien and security on any goods or document of title or negotiable security in respect of a previous advance upon a contract with an agent—and in case he delivers up the same to such agent upon a contract for the pledge, lien or security of other goods or of another document or security by such agent delivered to him in exchange, to be held upon the same lien as the goods, document or security so delivered up—then such new contract, if *bona fide*, shall be deemed a valid contract made in consideration of a present advance of money within this Act, but the lien acquired under such new contract on the goods, document or security deposited What contracts for lien valid.

in exchange shall not exceed the value of the goods, document or security so delivered up and exchanged. R. S. O. 1877, c. 121, s. 6.

Pledge of document of title to be deemed pledge of goods represented by it.

7. All contracts pledging or giving a lien upon any such document of title shall be deemed a pledge of and lien upon the goods to which it relates, and the agent shall be deemed the possessor of the goods or documents of title, whether the same are in his actual custody or are held by any other person for him or subject to his control. R. S. O. 1877, c. 121, s. 7.

Antecedent debt not to authorize lien.

8. No antecedent debt owing from any agent entrusted as aforesaid, shall authorize any lien or pledge in respect of such debt, nor shall it authorize such agent to deviate from any express orders or authority received from his principal. R. S. O. 1877, c. 121, s. 8.

Contracts must be *bona fide*.

9. Such contracts only shall be valid as are herein mentioned, and such loans, advances and exchanges only shall be valid as are made *bona fide* and without notice that the agent making the same has no authority so to do, or that he is acting *mala fide* against the owner of the goods. R. S. O. 1877, c. 121, s. 9.

Bona fide transactions with agents to bind owners.

10. All *bona fide* loans, advances and exchanges as aforesaid though made with notice of the agent not being the owner, but without notice of his acting without authority, shall bind the owner and all other persons interested in the goods, document or security, as the case may be. R. S. O. 1877, c. 121, s. 10.

Bona fide loans or advances when deemed authorized.

11. Where any loan or advance is *bona fide* made to an agent entrusted with and in possession of goods or documents of title as aforesaid on the faith of any contract in writing to consign, deposit, transfer or deliver such goods or documents of title, and the same are actually received by the person making the loan or advance, either at the time of the contract or at a time subsequent thereto, without notice that the agent is not authorized to make the pledge or security, such loan or advance shall be deemed a loan or advance upon the security of the goods or documents of title within this Act. R. S. O. 1877, c. 121, s. 11.

What contracts to be considered to be made with agent.

12. Every contract, whether made directly with the agent as aforesaid or with any clerk or other person on his behalf, shall be deemed a contract with such agent. R. S. O. 1877, c. 121, s. 12.

Payments when deemed advances.

13. Every payment, whether made by money, bills of exchange or other negotiable security, shall be deemed an advance within this Act. R. S. O. 1877, c. 121, s. 13.

14. Nothing herein contained shall lessen, alter or affect the civil responsibility of any agent for the breach of any duty or contract or the non-fulfilment of his orders or authority, in respect of any such contract, agreement, lien or pledge as aforesaid. R. S. O. 1877, c. 121, s. 14.

Other liability of agents not to be affected.

[See R. S. C., Cap. 164, ss. 63, 71.]

15. The conviction of any agent for a contravention of the Act of Canada respecting larceny and other similar offences shall not be received in evidence in any action against him. R. S. O. 1877, c. 121, s. 15.

Conviction not admissible in evidence.

16. Nothing herein contained shall prevent the owner from redeeming any goods or documents of title pledged as aforesaid, at any time before the same have been sold, upon repayment of the amount of the lien thereon or restoration of the securities in respect of which the lien exists, and upon payment or satisfaction to the agent of any sum of money for or in respect of which such agent is entitled to retain the goods or documents, by way of lien against such owner; or shall prevent the owner from recovering from the person with whom any goods or documents have been pledged, or who has any lien thereon, any balance or sum of money remaining in his hands as the produce of the sale of the goods, after deducting the amount of the lien under the contract. R. S. O. 1877, c. 121, s. 16.

Owners may redeem goods pledged.

17. In case of the bankruptcy of any such agent, and in case the owner of the goods redeems the same, he shall, in respect of the sum paid by him on account of the agent for such redemption, be held to have paid the same for the use of such agent before his bankruptcy, or in case the goods have not been so redeemed, the owner shall be deemed a creditor of the agent for the value of the goods so pledged at the time of the pledge, and may in either case prove for or set-off the sum so paid, or the value of such goods, as the case may be. R. S. O. 1877, c. 121, s. 17.

Remedy of the owner against the estate of bankrupt agent.

CHAPTER 129.

An Act respecting Limited Partnerships.

LIMITED PARTNERSHIPS MAY BE FORMED, s. 1.	CERTIFICATES OF RENEWAL, s. 9.
GENERAL AND SPECIAL PARTNERS, ss. 2-4.	ALTERATIONS, WHEN DEEMED A DISSOLUTION, s. 10.
CERTIFICATE OF PARTNERSHIP. Contents and form, ss. 5, 6.	PARTNERSHIP NAME, s. 11.
To be filed in County Court, s. 7.	LIABILITIES OF GENERAL AND SPECIAL PARTNERS, ss. 12-17.
Partnership not formed until filed, s. 8.	NO PREMATURE DISSOLUTION WITHOUT NOTICE, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Limited partnerships may be formed.

1. Limited partnerships for the transaction of any mercantile, mechanical or manufacturing business within the Province of Ontario, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned, but the provisions of this Act shall not be construed to authorize any such partnership for the purpose of banking or making insurance. R. S. O. 1877, c. 122, s. 1.

Of whom to consist.

2. Such partnerships may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners. R. S. O. 1877, c. 122, s. 2.

General and special partners.

3. General partners shall be jointly and severally responsible as general partners are by law, but special partners shall not be liable for the debts of the partnership beyond the amounts by them contributed to the capital. R. S. O. 1877, c. 122, s. 3.

General partners only to transact business, etc.

4. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same. R. S. O. 1877, c. 122, s. 4.

General to sign.

5. The persons desirous of forming such partnership shall make and severally sign a certificate which shall contain—

1. The name or firm under which the partnership is to be conducted; Contents of.
2. The general nature of the business intended to be transacted;
3. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual places of residence;
4. The amount of capital stock which each special partner has contributed;
5. The period at which the partnership is to commence and the period at which it will terminate. R. S. O. 1877, c. 122, s. 5.
6. The certificate shall be in the words or to the effect of the Form of form given in the schedule to this Act, and shall be signed by the several persons forming the partnership, before a Notary Public, who shall duly certify the same. R. S. O. 1877, c. 122, s. 6.
7. The certificate so signed and certified shall be filed in the office of the clerk of the County Court of the county, in which the principal place of business of the partnership is situate, and shall be recorded by him at full length in a book to be for that purpose kept and open to public inspection. R. S. O. 1877, c. 122, s. 7. Where to be filed.
8. No such partnership shall be deemed to have been formed until a certificate has been made, certified, filed and recorded as above directed; and if any false statement is made in such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof as general partners. R. S. O. 1877, c. 122, s. 8. Partnership not formed until filed.
9. Every renewal or continuance of a partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation; and every partnership otherwise renewed or continued, shall be deemed a general partnership. R. S. O. 1877, c. 122, s. 9. Certificates of continuance.
10. Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section. R. S. O. 1877, c. 122, s. 10. What alterations to be deemed a dissolution.

Partnership
name.

11. The business of the partnership shall be conducted under a name or firm in which the names of the general partners, or some or one of them, only shall be used; and if the name of a special partner is used in such firm with his privity, he shall be deemed a general partner. R. S. O. 1877. c. 122, s. 11.

Liability of
general part-
ners to actions.

12. Actions in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner. R. S. O. 1877, c. 122, s. 12.

Restrictions
upon stock of
special part-
ners.

13. No part of the sum which a special partner has contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest, any profits remain to be divided, he may also receive his portion of such profits. R. S. O. 1877. c. 122, s. 13.

When liable to
refund.

14. If it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of the deficient capital, with interest. R. S. O. 1877, c. 122, s. 14.

Privileges of
special part-
ners.

15. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions, he shall be deemed a general partner. R. S. O. 1877, c. 122, s. 15.

General part-
ners liable to
account.

16. The general partners shall be liable to account to each other and to the special partners for their management of the concern in like manner as other partners. R. S. O. 1877. c. 122, s. 16.

Other cred-
itors preferred
to special
partners.

17. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R. S. O. 1877, c. 122, s. 17.

No premature
dissolution
without no-
tice, etc.

18. No dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or in the certificate of its renewal.

until a notice of such dissolution has been filed in the office in which the original certificate was recorded, and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business, and for the same time in the *Ontario Gazette*. R. S. O. 1877, c. 122, s. 18.

SCHEDULE.

(Section 6.)

CERTIFICATE OF PARTNERSHIP.

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____ and (*C. D.*) residing usually at _____, as General Partners; and (*E. F.*) residing usually at _____, as Special Partners. The said (*E. F.*) having contributed (\$4,000) and the said (*G. H.*) (\$8,000) to the Capital Stock of the said Partnership.

The said Partnership commenced on the _____ day of _____ 18____
and terminates on the _____ day of _____ 18____,

Dated this _____ day of _____ 18____,

(Signed,)

A. B.
C. D.
E. F.
G. H.

Signed in the presence of me, }
 L. M. }
Notary Public. }

R. S. O. 1877, c. 122, Sched.

CHAPTER 130.

An Act respecting the Registration of Co-Partnerships and Business firms.

DECLARATIONS OF PARTNERSHIP TO BE FILED, s. 1.	DECLARATIONS BY PERSONS TRADING UNDER A BUSINESS NAME NOT THEIR OWN, s. 9.
Form, s. 2.	Form, s. 10.
When to be filed, s. 3.	PENALTY FOR NOT FILING DECLARATIONS, s. 11.
Declaration where alteration in partnership, s. 4.	REGISTRATION OF DECLARATIONS, s. 12.
Allegations of declarations not controvertible by the signers, s. 5.	Form of index books, ss. 13, 14.
Signers to be partners until a new declaration filed, s. 6.	Firm index book, s. 14.
DECLARATION OF DISSOLUTION, s. 7.	Individual index book, s. 15.
ACTIONS AGAINST PARTNERS NOT FILING DECLARATION, s. 8.	Fees of registrars, s. 16.
	Furnishing books, s. 17.
	ACT NOT TO APPLY TO CHEESE MANUFACTURING COMPANIES, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Persons in partnership to deliver a declaration to the Registrar. **1.—(1)** All persons associated in partnership for trading, manufacturing or mining purposes, shall cause to be delivered to the registrar of the registry division in which they carry or intend to carry on business, a declaration in writing, signed by the several members of such co-partnership.

When some of the parties are absent. **(2)** If, however, any of the said members are absent from the place where they carry or intend to carry on business, at the time of making the declaration, then the declaration shall be signed by the members present in their own names, and also for their absent co-members, under their special authority to that effect, and such special authority shall be at the same time filed with the registrar and annexed to the declaration. R. S. O. 1877, c. 123, s. 1.

Requisites of declaration. **2.** The declaration shall be in the form or to the effect of Schedule A to this Act, and shall contain the names, surnames, additions and residences of each and every partner as aforesaid, and the name, style or firm under which they carry on or intend to carry on such business and shall state also the time during which the partnership has existed or is to exist, and declare that the persons therein named are the only members of such co-partnership. R. S. O. 1877, c. 123, s. 2.

3. The declaration shall be filed within six months next after the formation of the partnership. R. S. O. 1877, c. 123, s. 3. Time of filing declaration.

4. A similar declaration shall in like manner be filed when and so often as any change or alteration takes place in the membership of the partnership, or in the name, style or firm under which they intend to carry on business, or in the place of residence of each member of the firm; and every new declaration shall state the alteration in the partnership. R. S. O. 1877, c. 123, s. 4. Declaration where change in partnership.

5. The allegations made in the declarations aforesaid shall not be controvertible as against any party by any person who has signed the same, nor as against any party not being a member of the partnership by any person who has signed the same, or who was really a member of the partnership therein mentioned at the time the declarations were respectively made. R. S. O. 1877, c. 123, s. 5. Allegations in the declaration not to be controvertible against certain parties.

6. Until a new declaration is made and filed by him, or by his co-partners or any of them as aforesaid, no such signer shall be deemed to have ceased to be a partner; but nothing herein contained shall exempt from liability any person who, being a partner, fails to declare the same as already provided, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment is recovered against them, any other partner or partners may be sued jointly or severally in an action on the original cause of action upon which the judgment was rendered; nor shall anything in this Act be construed to affect the rights of any partners with regard to each other, except that no declaration as aforesaid shall be controverted by any signer thereof. R. S. O. 1877, c. 123, s. 6. Persons signing declaration to be deemed partners till new declaration is filed. Liability of partners failing to declare the same. Rights of partners between themselves.

7. Upon the dissolution of a partnership, any or all of the persons who composed the partnership may sign a declaration certifying the dissolution of the partnership: such declaration may be in the form of Schedule B to this Act. R. S. O. 1877, c. 123, s. 7. Declaration of dissolution of partnership may be registered.

8.—(1) If any persons are associated as partners for the purpose of trade, and no declaration is filed under this Act with regard to such partnership, then any action which might be brought against all the members of the partnership may also be brought against any one or more of them, as carrying on or as having carried on business jointly with others, without naming such others in the writ or declaration under the name and style of their said co-partnership firm: and if judgment be recovered against him or them, any other partner or partners may be sued jointly or severally on the original cause of action on which such judgment is rendered; How actions may be brought against partners in trade not filing declaration;

when the action is founded on any obligation in writing.

(2) If any such action be founded on any obligation or instrument in writing in which all or any of the partners bound by it are named, then all the partners named therein shall be made parties to such action; and a judgment rendered against any member of such existing co-partnership for a partnership debt or liability, may be executed by process of execution against all and every the partnership stock, property, and effects, in the same manner, and to the same extent as if such judgment had been rendered against such co-partnership. R. S. O. 1877, c. 123, s. 8.

A person designating his business name as a firm to file a declaration.

9. Every person who is engaged in business for trading, manufacturing, or mining purposes, and who is not associated in partnership with any other person or persons, but who uses as his business style some name or designation other than his own name, or who in such style uses his own name with the addition of "*and Company*," or some other word or phrase indicating a plurality of members in the firm, shall cause to be delivered to the registrar of the registry division in which such person carries on or intends to carry on business, a declaration in writing, signed by such person. R. S. O. 1877, c. 123, s. 9.

Form of declaration.

10. Such declaration shall contain the name, surname, addition, and residence of the person making the same, and the name, style or firm, under which he carries on or intends to carry on business, and shall also state that no other person is associated with him in partnership; and such declaration shall be filed within six months of the time when such style is first used. R. S. O. 1877, c. 123, s. 10.

Penalty for non-compliance.

11. Every member of a partnership or other person required to register a declaration under the provisions of this Act who fails to comply with the requirements of this Act shall forfeit the sum of \$100, to be recovered before any Court of competent jurisdiction, by any person suing as well in his own behalf as on behalf of Her Majesty; and half of such penalty shall belong to the Crown for the uses of the Province, and the other half to the party suing for the same, unless the action is brought, as it may be, on behalf of the Crown only, in which case the whole of the penalty shall belong to Her Majesty for the uses aforesaid. R. S. O. 1877, c. 123, s. 11; 44 V. c. 13, s. 1.

Application of penalty.

Registrar to record declaration.

12. It shall be the duty of the registrar to enter all declarations made under this Act in the order in which the same are received in a book to be by him kept for that purpose, which shall at all times during office hours be open to the inspection of the public gratuitously; and for registering each such declaration the registrar shall be entitled to receive from the person filing the same the sum of fifty cents if it does not con-

Registrar's fees.

tain more than two hundred words, and at the rate of ten cents per hundred words for all above the number of two hundred. R. S. O. 1877, c. 123, s. 13.

13. It shall be the duty of each registrar to keep two alphabetical index books of all declarations delivered to him, in pursuance of the provisions of this Act. R. S. O. 1877, c. 123, s. 14. Registrar to keep two indexes.

14. In one of such books, hereinafter called the "Firm Index Book," the registrar shall enter in alphabetical order the style of the respective firms, in respect to which declarations have been delivered to him, and shall place opposite such entry the names of the person or persons composing such firm, and the date of the receipt by him of the declaration, in the manner shewn in the form of "Firm Index Book," given in Schedule C to this Act. R. S. O. 1877, c. 123, s. 15. Form of "Firm Index Book."

15. In the second of such books, hereinafter called the "Individual Index Book," the registrar shall enter in alphabetical order the names of the respective members of each of such firms, and shall place opposite such entry the style of the firm of which such person is a member, and the date of the receipt of the declaration, in the manner shewn in the form of "Individual Index Book," given in Schedule D to this Act. R. S. O. 1877, c. 123, s. 16. Form of "Individual Index Book."

16. The registrar shall be entitled to charge for searches the following fees and no more: Registrar's fees.

For searching in Firm Index—each firm ten cents ;
For searching in Individual Index—each name ten cents ;
For each certificate, when required—twenty-five cents.

R. S. O. c. 1877, 123, s. 17.

17. All the books required for the purposes of this Act shall be furnished by the treasurer of the municipality, whose duty it is to furnish registry books (or in case of his default, by the registrar), in the same manner as other registry books. Who to furnish registry books.
R. S. O. 1877, c. 123, s. 18.

18. This Act shall not be construed to apply to associations of individuals for the manufacture of cheese and contributing produce from their dairies for that purpose. R. S. O. 1877, c. 123, s. 19. Cheese manufacturing Co.'s excepted.

SCHEDULE A.

(Section 2.)

DECLARATION OF CO-PARTNERSHIP.

Province of Ontario, }
County of }

We of in (occu-
pation) and of in
(occupation), hereby certify

1. That we have carried on and intend to carry on trade and business
as _____ at _____ in partnership, under
the name and firm of _____ (Or, I (or we) the
undersigned, of _____ in _____, hereby certify
that I (or we) have carried on and intend to carry on trade and business
as _____ at _____ in partnership with C. D. of
_____ and E. F. of _____ (as the case may be).

2. That the said partnership has subsisted since the _____ day of _____ 18__.

3. And that we, (or I (or we) and the said C. D. and E. F.) are and have been since the said day the only members of the said partnership.

Witness our hands at this day of 18 .

R. S. O. 1877, c. 123, *Sched. A.*

SCHEDULE B.

(Section 7.)

DECLARATION OF DISSOLUTION OF PARTNERSHIP.

Province of Ontario, } I,
County of } formerly a member of the firm carrying on busi-
ness as

at _____, in the County of _____, under
the style of _____, do hereby certify that the said
partnership was on the _____ day of _____ dissolved

Witness my hand, at _____, the _____ day of _____, 18 ____.

R. S. O. 1877, c. 123, *Sched. B.*

SCHEDULE C.

(Section 14.)

FIRM INDEX BOOK.

STYLE OF FIRM.	NAMES OF PERSONS COMPOSING THE FIRM.	DATE OF FILING DECLARATION.
Abbott, Black & Co.	George Abbott, John Black, Edward Cook	10th February, 1871.
Bernard, Green & Jones	John Bernard, Edward Green, John Jones	12th February, 1871.
Cook (Thos.) & Co.	Thomas Cook, James Wilson	14th February, 1871.
Dadson, William	William Dadson, Thomas Jones, Robert Watson, William Wilberforce, James Johnson	14th February, 1871.
Dick & Co.	Richard Dick	15th May, 1872.
Dow (Wm.) & Sons	William Dow	19th May, 1872.

R. S. O. 1877, c. 123, *Sched. C.*

SCHEDULE D.

(Section 15.)

INDIVIDUAL INDEX BOOK.

NAME OF INDIVIDUAL.	STYLE OF FIRM OF WHICH A MEMBER.	DATE OF FILING DECLARATION.
Abbott, George	Abbott, Black & Co.	10th February, 1871.
Black, John	Abbott, Black & Co.	10th February, 1871.
Bernard, John	Bernard, Green & Jones	12th February, 1871.
Cook, Edward	Abbott, Black & Co.	10th February, 1871.
Cook, Thomas	Thos. Cook & Co.	14th February, 1871.
Dadson, William	William Dadson	14th February, 1871.
Dick, Richard	Dick & Co.	15th May, 1872.
Dow, William	Wm. Dow & Sons	19th May, 1872.

R. S. O. 1877, c. 123, *Sched. D.*

SECTION X.

LAWS AFFECTING SPECIAL CLASSES OF PERSONS.

1. *Husband and Wife.*

- CHAP. 131.—SOLEMNIZATION OF MARRIAGE, p. 1243.
 " 132.—SEPARATE RIGHTS OF PROPERTY OF MARRIED WOMEN, p. 1251.
 " 133.—DOWER, p. 1259.
 " 134.—CONVEYANCES BY MARRIED WOMEN, p. 1264.
 " 135.—ACCIDENTS, COMPENSATION TO FAMILIES OF THE KILLED, p. 1266.
 " 136.—INSURANCE FOR THE BENEFIT OF WIVES AND CHILDREN, p. 1269.

2. *Parent and Child.*

- CHAP. 137.—INFANTS, p. 1276.
 " 138.—ILLEGITIMATE CHILDREN, p. 1282.

3. *Master and Servant.*

- CHAP. 139.—MASTER AND SERVANT, p. 1283.
 " 140.—MASTERS AND WORKMEN, DISPUTES, p. 1288.
 " 141.—COMPENSATION FOR INJURIES TO WORKMEN, p. 1294.
 " 142.—APPRENTICES AND MINORS, p. 1304.

4. *Landlord and Tenant.*

- CHAP. 143.—LANDLORD AND TENANT, p. 1311.
 " 144.—OVERHOLDING TENANTS, ETC., p. 1326.

5. *Profession of the Law.*

- CHAP. 145.—LAW SOCIETY, p. 1331.
 " 146.—BARRISTERS-AT-LAW, p. 1341.
 " 147.—SOLICITORS, p. 1343.

6. *Medical Profession.*

- CHAP. 148.—MEDICINE AND SURGERY, p. 1360.
 " 149.—ANATOMY, p. 1377.
 " 150.—DENTISTRY, p. 1380.
 " 151.—PHARMACY, p. 1386.

7. *Land Surveyors.*

- CHAP. 152.—SURVEYORS, p. 1395.

8. *Notaries Public.*

- CHAP. 153.—NOTARIES, p. 1418.

9. *Miscellaneous.*

- CHAP. 154.—INNKEEPERS, p. 1420.
 " 155.—PAWNBROKERS, p. 1422.

1. *HUSBAND AND WIFE.*

- CHAP. 131.—SOLEMNIZATION OF MARRIAGES, p. 1243.
 “ 132.—SEPARATE RIGHTS OF PROPERTY OF MARRIED WOMEN, p. 1251.
 “ 133.—DOWER, p. 1259.
 “ 134.—CONVEYANCES BY MARRIED WOMEN, p. 1264.
 “ 135.—ACCIDENTS, COMPENSATION TO FAMILIES OF THE KILLED, p. 1266.
 “ 136.—INSURANCE FOR THE BENEFIT OF WIVES AND CHILDREN, p. 1269.

CHAPTER 131.

An Act respecting the Solemnization of Marriages.

MINISTERS OF ALL DENOMINATIONS MAY SOLEMNIZE MARRIAGES, s. 1.	CERTIFICATE OF MARRIAGE TO BE GIVEN BY MINISTER IF REQUIRED, s. 16.
MARRIAGES TO BE EITHER BY LICENSE OR CERTIFICATE, OR BY BANNS, s. 2.	RECORD TO BE KEPT BY MINISTERS OF MARRIAGES SOLEMNIZED BY THEM, s. 17.
ISSUE OF LICENSES OR CERTIFICATES, ss. 3-10.	CLERK OF PEACE TO FURNISH THE NECESSARY BOOKS, s. 18.
AFFIDAVIT REQUIRED TO OBTAIN A LICENSE OR CERTIFICATE, s. 11.	BOOKS TO BE THE PROPERTY OF THE CHURCH TO WHICH THE MINISTER BELONGS, s. 19.
LICENSE, ETC., NOT TO ISSUE IF ISSUER KNOWS OR SUSPECTS THAT AFFIDAVIT IS FALSE, s. 12.	QUAKER MARRIAGES, s. 20.
PERSONS WHOSE CONSENT TO THE MARRIAGE OF A MINOR MUST BE OBTAINED, s. 13.	MARRIAGES OF “DISCIPLES OF CHRIST,” s. 21,
FEES FOR LICENSES, s. 14.	LICENSE, &C., TO PROTECT MINISTER FROM DAMAGES IF HE IS UNAWARE OF ANY IMPEDIMENT, s. 22.
MARRIAGE NEED NOT BE IN A CHURCH NOR WITHIN PARTICULAR HOURS, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The ministers and clergymen of every church and religious denomination duly ordained or appointed according to the rites and ceremonies of the churches or denominations to which they respectively belong, and resident in Ontario, may, by virtue of such ordination or appointment, and according to the rites and usages of such churches or denominations respectively, solemnize the ceremony of marriage between any two persons not under a legal disqualification to contract such marriage. R. S. O. 1877, c. 124, s. 1.

Minister of any denomination may solemnize marriage.

No minister to solemnize marriage unless authorized by license or certificate or after publication of banns.

2. No minister or clergyman shall celebrate the ceremony of marriage between any two persons, unless duly authorized so to do by license under the hand and seal of the Lieutenant-Governor, or his Deputy duly authorized in that behalf, or by a certificate under this Act, or unless the intention of the two persons to intermarry has been proclaimed once, openly, and in an audible voice, either in the church, chapel or meeting-house in which one of the parties has been in the habit of attending worship, or in some church, chapel, meeting-house, or place of public worship of the congregation or religious community with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the parties has, for the space of fifteen days immediately preceding, had his or her usual place of abode; such proclamation to be on a Sunday, immediately before the service begins, or immediately after it ends, or at some intermediate part of the service. R. S. O. 1877, c. 124, s. 2. See Cap. 12, s. 2.

Certificate instead of license.

3. A certificate in the form given in Schedule A or Schedule B to this Act (according to the circumstances of the case) may at the option of the applicant, be substituted for a marriage license; and such certificate shall have the same legal effect as a license. R. S. O. 1877, c. 124, s. 3.

Licenses and certificates to be issued by Prov. Sec.

4. Such licenses or certificates shall be issued from the office of the Provincial Secretary, and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council may name for that purpose. R. S. O. 1877, c. 124, s. 4.

Licenses signed by official persons valid notwithstanding their offices vacated.

5. Every license executed under the hand and seal of the Lieutenant-Governor, or his Deputy duly authorized in that behalf, and every certificate signed by the Provincial Secretary or Assistant Provincial Secretary, for the purpose of solemnizing a marriage, shall be and remain valid, notwithstanding that the Lieutenant-Governor or Deputy, or Provincial Secretary, or Assistant Provincial Secretary has ceased to hold office before the time of the issue of the license or certificate. R. S. O. 1877, c. 124, s. 5. See Cap. 12, s. 2.

Unauthorized persons issuing licenses to be subject to a fine.

6. If any person issues any license or certificate for the solemnization of marriage without being authorized by the Lieutenant-Governor in Council in that behalf, unless under the authority in the next section contained, he shall forfeit to Her Majesty the sum of \$100 for every license or certificate so issued. R. S. O. 1877, c. 124, s. 6.

Deputy issues may be appointed.

7.—(1) Any issuer of marriage licenses or certificates may, with the approval, in writing, of the mayor or reeve of the city, town, township or incorporated village wherein he resides, from time to time, when prevented from acting by illness or

unavoidable accident, or where his temporary absence is contemplated, appoint, by writing under his hand, a deputy to act for him.

(2) The said deputy shall, while so acting at the residence or office or place of business of the said issuer for whom the deputy acts possess the powers and privileges (as to administering necessary oaths and otherwise) of the issuer appointing him. Powers.

(3) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the cause thereof, and of the name and official position of the person by whom the appointment has been approved, and the Lieutenant-Governor may at any time annul the appointment. Appointment of Deputy to be certified to Prov. Sec.

(4) In case it is necessary on account of illness, unavoidable accident, or contemplated temporary absence of an issuer of marriage licenses, to appoint a deputy, and there is no mayor or reeve to give the consent required by the provisions of sub-section 1 of this section, such issuer of marriage licenses may, in the manner in other respects required by said sub-section, but without such consent, appoint such deputy; and the licenses or certificates issued by such deputy shall be deemed to authorize the solemnization of marriages at the same places as licenses or certificates issued by the principal for whom such deputy acts; and no irregularity in the appointment of a deputy issuer shall affect the validity of a license or certificate by him issued. R. S. O. 1877, c. 124, s. 7. Where no Mayor, etc.

8. Every deputy so appointed shall sign each license and certificate issued by him, with the name of his principal as well as his own name, in the following manner—"A. B., *Issuer of Marriage Licenses, per C. D., Deputy Issuer*," or to the like effect; but no irregularity in the issue of a license or certificate issued by an issuer or deputy issuer to any person or persons obtaining the same, or acting thereon in good faith, shall invalidate a marriage solemnized in pursuance thereof. R. S. O. 1877, c. 124, s. 8. How Deputies to sign licenses.

9. Every issuer of licenses or certificates aforesaid, or any other person having unissued licenses or certificates in his possession, power, custody or control, shall whenever required so to do, transmit to the Provincial Secretary every such license or certificate; and the property in all unissued licenses and certificates shall be and remain in Her Majesty. R. S. O. 1877, c. 124, s. 9. Unissued licenses to be returned when required.

10. All expenses incident to providing licenses and certificates, shall be paid by the issuer of the licenses and certificates. R. S. O. 1877, c. 124, s. 10. Expense of providing licenses.

Affidavit of party before license or certificate is granted.

11.—(1) Before any license or certificate is granted by any issuer or deputy issuer, one of the parties to the intended marriage shall personally make an affidavit which shall state

- (a) In what county or district it is intended that the marriage shall be solemnized, and in what town, village or place in the county or district, and
- (b) That he or she believes that there is no affinity, consanguinity, precontract, or other lawful cause, or legal impediment, to bar or hinder the solemnization of the marriage ;
- (c) That one of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate had his or her usual place of abode within the county or judicial district in which (for either municipal or judicial purposes) the local municipality in which the marriage is to be solemnized lies ;

Or (if the county or district in which it is intended that the marriage shall be solemnized is not that in which either of the parties has, for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode), that the reason of procuring the marriage to be solemnized in such place is not in order to evade due publicity or for any other improper purpose.

(2) In case either of the parties, not being a widower or widow, is under the age of twenty-one years, the affidavit shall further state that the consent of the person whose consent to the marriage is required by law has been obtained thereto.

(3) If there is no person having authority to give such consent then, upon oath made to that effect by the party requiring the license or certificate, it shall be lawful to grant the license or certificate notwithstanding the want of any such consent.

(4) The affidavit may be in the form set forth in Schedule C to this Act, and may be made before the issuer of licenses or his deputy. R. S. O. 1877, c. 124, s. 11.

Issuer having personal knowledge or reason to suspect that affidavit is untrue.

12. In case the person having authority to issue the license or certificate has personal knowledge that the facts are not as section 11 of this Act requires, he shall not issue the license or certificate ; and if he has any reason to believe or suspect that the facts are not as aforesaid, he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to the said affidavit or deposition. R. S. O. 1877, c. 124, s. 12.

Persons whose consent to marriage of a minor is to be obtained.

13. The father, if living, of any party under twenty-one years of age (not being a widower or widow), or if the father is dead the guardian or guardians of the person of the party so under age, lawfully appointed, or one of the guardians, if there

are more than one ; or in case there is no such guardian, then the mother of the minor, if the mother is unmarried, shall have authority to give consent to the marriage. R. S. O. 1877, c. 124, s. 13.

14. No fee shall be payable for any license or certificate, except the sum of \$2, which the issuer of the license or certificate shall be entitled to retain for his own use ; but the Lieutenant-Governor in Council may from time to time reduce, the sum so payable. R. S. O. 1877, c. 124, s. 14.

15. It shall not be a valid objection to the legality of a marriage that the same was not solemnized in a consecrated church or chapel, or within any particular hours. R. S. O. 1877, c. 124, s. 15.

No valid objection that marriage was not solemnized in a church, etc.

16. Every clergyman or minister, who celebrates a marriage, shall, if required at the time of the marriage by either of the parties thereto, give a certificate of the marriage under his hand, specifying the names of the persons married, the time of the marriage, and the names of two or more persons who witnessed it, and specifying also whether the marriage was solemnized pursuant to license or certificate under this Act, or after publication of banns ; and the clergyman or minister may demand twenty-five cents for the certificate given by him from the person requiring it. R. S. O. 1877, c. 124, s. 16.

Ministers to give certificate if required.

Fee for certificate.

17. Every clergyman or minister shall, immediately after he has solemnized a marriage, enter in a book, to be kept by him for the purpose, a true record of the marriage ; which record shall specify all the particulars, given in Schedule B to *The Act respecting the Registration of Births, Marriages and Deaths*. R. S. O. 1877, c. 124, s. 17.

Ministers to enter marriages in a book, etc.
Form of record.
Rev. Stat. c. 40.

18. The Clerk of the Peace of every county shall, at the expense of the county from time to time on demand, furnish all clergymen or ministers with the books to be kept ; and such books shall have columns and headings printed on every page according to the form of said Schedule B ; and the books shall be of such size and form as to admit of the necessary entries being conveniently made therein. R. S. O. 1877, c. 124, s. 18.

Clerks of the Peace to furnish books and printed forms at the expense of the County.

19. The book by whomsoever furnished shall be the property of the church or denomination to which the clergyman or minister, clerk or secretary belongs at the time of the first marriage which he records therein. R. S. O. 1877, c. 124, s. 19.

Said books, etc., to be property of the church to which clergyman belongs.

20. Every marriage duly solemnized between members of the Religious Society of Friends, commonly called Quakers, according to the rites and usages thereof, shall be valid ; and all the duties imposed by this Act, or by *The Act respecting the Registration of Births, Marriages and Deaths*, upon a minister

Quakers' marriages declared valid.

Rev. Stat. c. 40.

and clergyman, shall with regard to such marriage, be performed by the clerk or secretary of the Society, or of the meeting at which the marriage is solemnized. R. S. O. 1877, c. 124, s. 20.

Marriages of
"Disciples of
Christ."

21.—(1) This Act shall be deemed to apply to the churches or congregations of religious people commonly called or known congregationally as "Congregations of God," or of Christ, and individually as "Disciples of Christ;" and any elder, evangelist or missionary, for the time being, of any such church or congregation, who, from time to time is chosen by any such congregation, for the purpose of the solemnization of marriages, shall be deemed to have, for the time being, the authority of a minister or a clergyman under this Act, and within the meaning thereof. 46 V. c. 11, s. 2.

Rev. Stat. c. 40. (2) All the duties imposed upon and rights given to ministers and clergymen by this Act, or by *The Act respecting the Registration of Births, Marriages and Deaths*, are hereby imposed upon and given to such elders, evangelists, or missionaries, as aforesaid. 46 V. c. 11, s. 3.

License to protect minister from damages where he is unaware of the impediment.

22. No minister who performs a marriage ceremony after banns published, or after a license or a certificate under this Act issued, shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless, at the time when he performed the ceremony, he was aware of the impediment. R. S. O. 1877, c. 124, s. 21.

SCHEDULE A.

(Section 3.)

FORM OF CERTIFICATE BEFORE MARRIAGE WITHOUT BANNS, WHERE ONE OF THE PARTIES HAS RESIDED FOR FIFTEEN DAYS NEXT PRECEDING THE ISSUE OF THE CERTIFICATE IN THE COUNTY.

THESE are to certify that *A. B.* of _____ and *C. D.* of _____ being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A. B.* (*or C. D.*) has made oath, as required by law, that he (*or she*) believes that there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage, and that said *A. B.* *or C. D.* (*or both, as the case may be*), has, (*or have*) had his (*or her, or their*) usual place of abode, for the space of fifteen days last past, within the City (*County or District*) of _____, namely, in the Township (*Town or Village*) of _____ in the said County (*or District*) of _____ and that the said *A. B.* and *C. D.* are of the full age of twenty-one years. [*Or that A. B. or C. D. is a widower or widow; or is under the age of twenty-one years, and that the consent of E. F., whose consent to said*

marriage is required by law, has been obtained ; or that the father of the said (*party under age*) is dead, no guardian of the person of said (*party*) has been appointed, and the mother of said (*party*) is dead (*or married*), and there is no person having authority to give consent to said marriage (*as the case may be*).]

And these are therefore to certify that the requirements of *The Act respecting the Solemnization of Marriages* have been complied with.

Given under my hand and seal at this day of _____ in the year of our Lord 18____, and in the year of Her Majesty's reign.

G. H.,

Issuer (*or Deputy Issuer*) of Licenses.

Issued from the office of the Provincial Secretary for the Province of Ontario,

this day of 18____
K. L.,

Provincial Secretary.

R. S. O. 1877, c. 124, Sched. A.

SCHEDULE B.

(Section 3.)

FORM OF CERTIFICATE FOR MARRIAGE WITHOUT BANNs WHERE NEITHER OF THE PARTIES HAS RESIDED FOR 15 DAYS NEXT PRECEDING IN THE COUNTY.

THESE are to certify that A. B. of _____ and C. D. of _____ being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said A. B. (*or C. D.*) has made oath that he (*or she*) believes that there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage, and having also otherwise made oath as required by law. These are therefore to certify that the requirements of *The Act respecting the solemnization of Marriages* have been complied with.

Given under my hand and seal at, etc. (*as in preceding form*).

G. H.,

Issuer (*or Deputy Issuer*) of Licenses.

Issued, etc.

K. L.,

Provincial Secretary.

R. S. O. 1877, c. 124, Sched. B.

SCHEDULE C.

(Section 11).

FORM OF AFFIDAVIT.

I, A. B. (*or C. D.*) of _____ Bachelor (*or* widower, *or* spinster *or* widow).
make oath and say as follows :
1. I, and C. D. of _____ Spinster (*or* widow, *or* bachelor *or* widower).

are desirous of entering into the contract of marriage, and of having our marriage duly solemnized at the town (*or* village, etc.) of _____ in the county (*or* district) of _____

2. According to the best of my knowledge and belief, there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

[3. I, or the said C. D. (or both, as the case may be) have (or has) had since the day of my (or his, or her, or our) usual place of abode within the municipality of in the said county (or district). (Or if neither of the parties has, for the space of 15 days immediately preceding the issue of the certificate or license, had his or her usual place of abode in the county or district in which it is intended that the marriage shall be solemnized; The reason of procuring the marriage to be solemnized in is not in order to evade due publicity, or for any other improper purpose.)]

4. I am of the age of years, and the said C. D. is over the age of 21 years.

5. (In case of one or both of the parties being under the age of 21 years) I am a { widower } or the said C. D. (or A. B. is a { widow } [Or E. F. of is the person whose consent to said marriage is required by law, and the said E. F. consents to the said marriage.]

[Or The father of the said (party under age) is dead, no guardian of the person of the said (party under age) has been appointed, and the mother or the said (party under age) is dead (or married), and there is no person having authority to give consent to said marriage (as the case may be.)]

Sworn before me, etc. (Signed) A. B. or C. D.

(Issuer of Licenses, or
Deputy Issuer of Licenses.)

R. S. O. 1887, c. 124, Sched. C.

CHAPTER 132.

An Act respecting the property of Married Women.

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INTERPRETATION, s. 2.

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EARNINGS OF MARRIED WOMEN, s.
5 (1).

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INGS OF HER MINOR CHILDREN,
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PROPERTY OF MARRIED WOMAN
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AFFECTED, s. 24.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Married Women's Property Act.*" 47 V. c. 19, s. 1. Short title.

2. In this Act the word "contract" shall include the acceptance of any trust, or of the office of executrix or administratrix, and the provisions of this Act as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by a married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust or administration, and the word "property" shall include a thing in action. 47 V. c. 19, s. 21. Interpretation
"Contract."

"Property."

3.—(1) A married woman shall be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property as her separate property, in the same manner as if she were a *feme sole*, without the intervention of any trustee. Married woman to be capable of holding property as a *feme sole*.

(2) A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise.

(3) Every contract entered into by a married woman shall be deemed to be a contract entered into by her with respect to and to bind her separate property, unless the contrary is shewn.

(4) Every contract entered into by a married woman with respect to and to bind her separate property, shall bind, not only the separate property which she is possessed of or entitled to at the date of the contract, but also all separate property which she may thereafter acquire. 47 V. c. 19, s. 2.

4.—(1) Every woman married on or before the 4th day of May, 1859, without any marriage contract or settlement, shall and may, from and after the said day, notwithstanding her coverture, have, hold and enjoy all her real estate not on or before the said 4th day of May taken possession of by her husband, by himself or his tenants, and all her personal property not on or before said day reduced into the possession of A woman married on or before 4th May, 1859, may hold property not then reduced to possession of her husband.

her husband, whether belonging to her before marriage or in any way acquired by her after marriage, free from his debts and obligations contracted after the said 4th day of May, and from his control or disposition without her consent, in as full and ample a manner as if she were sole and unmarried.

A woman married between 4th May, 1859, and 2nd Mar., 1872, may hold her real property free from the debts or control of her husband.

(2) Every woman married between the 5th day of May, 1859, and the 2nd day of March, 1872 (both inclusive), without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her real property, whether belonging to her before marriage or acquired by her by inheritance, devise or gift, or as heir-at-law to an intestate, or in any other way after marriage, free from the debts and obligations of her husband, and free from his control or disposition, without her consent, in as full and ample a manner as if she continued sole and unmarried; but this section shall not extend to any property received by a married woman from her husband during coverture.

Proviso.

A woman married after 2nd March, 1872, may hold her real property free from any estate or claim of her husband during her life.

(3) The real estate of any woman married after the 2nd day of March, 1872, whether owned by her at the time of her marriage, or acquired in any manner during her coverture, and the rents, issues and profits thereof respectively, shall, without prejudice and subject to the trusts of any settlement affecting the same, be held and enjoyed by her for her separate use, free from any estate therein of her husband during her lifetime, and from his debts and obligations, and from any claim or estate by him, as tenant by the curtesy; and her receipts alone shall be a discharge for any rents, issues and profits of the same; but nothing herein contained shall prejudice the right of the husband as tenant by the curtesy in any real estate of the wife which she has not disposed of *inter vivos*, or by will.

A woman married since 4th May, 1859, may hold her personal property free from the debts or control of her husband.

(4) Every woman married since the 4th day of May, 1859, without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her personal property, whether belonging to her before marriage or acquired by her by inheritance, bequest or gift, or as next of kin to an intestate, or in any other way after marriage, free from the debts and obligations of her husband, and free from his control or disposition, without her consent, in as full and ample a manner as if she continued sole and unmarried; but this sub-section shall not extend to any property received by a married woman from her husband during coverture. R.S.O. 1877, c. 125, ss. 2-5; 47 V. c. 19, s. 22; 50 V. c. 7, s. 21.

Proviso.

Estimate of married women.

5.—(1) Every married woman, whether married before or after the passing of this Act, shall be entitled to have and hold as her separate property, and to dispose of as her separate property, the wages, earnings, money and property, gained or acquired by her in any employment, trade or occupation in which she is engaged or carries on, and in which her husband has no proprietary interest, or gained or acquired by the exercise of any literary, artistic or scientific skill. 50 V. c. 7, s. 22.

(2) Every woman married on or after the first day of July, 1884, shall also be entitled to have and hold and to dispose of as her separate property all other real and personal property belonging to her at the time of marriage, or acquired by or devolving upon her after marriage. 47 V. c. 19, s. 3.

Property of a woman married on or after 1st July, 1884, to be held by her as *jure sole*.

6. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Act. 47 V. c. 19, s. 4.

Execution of general power.

7. Every woman married before the first day of July, 1884, shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property, all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue on or after the said first day of July, including any wages, earnings, money, and property so gained or acquired by her as aforesaid. 47 V. c. 19, s. 5.

Property acquired after 1st July, 1884, by a woman married before that date to be held by her as *a jure sole*.

8. Notwithstanding that a married woman is restrained from anticipation, the Court may, if it thinks fit, where it appears to the Court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. 49 V. c. 20, s. 18.

Power for court to bind interest of married women. Imp. 44 & 45 V. c. 41, s. 39.

9. All deposits, all sums forming part of public stocks or funds, which on the first day of July, 1884, were standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial, or otherwise, or of, or in any industrial, provident, friendly, benefit, building, or loan society, which, on the first day of July, 1884, were standing in her name, shall be deemed, unless and until the contrary be shewn, to be the separate property of such married woman; and the fact that any such deposit, sum forming part of public stocks, funds, or of any share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient *prima facie* evidence that she is beneficially entitled thereto for her separate use, so as to authorize and empower her to receive or transfer the same, and to receive the dividends, interests, and profits thereof, without the concurrence of her husband, and to indemnify all public officers, and all directors, managers, and trustees of every such corporation, company, public body, or society as aforesaid, in respect thereof. 47 V. c. 19, s. 6.

As to stock, etc., to which a married woman is entitled.

10. All such particulars mentioned in the preceding section which after the first day of July, 1884, were placed, or transferred in or into, or made to stand, in the sole name of any married woman shall be deemed, unless and until the contrary be shewn, to be her separate property, in respect of

As to stock, etc., to which a married woman is entitled.

Proviso.

which, so far as any liability may be incident thereto, her separate estate shall alone be liable, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded or not; Provided always, that nothing in this Act shall require or authorize any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein to which any liability may be incident contrary to the provisions of any statute, charter, by-law, articles of association, or deed of settlement regulating such corporation or company. 47 V. c. 19, s. 7.

Investments in joint names of married women and others.

11. All the provisions hereinbefore contained as to such particulars mentioned in section 9, which on the first day of July, 1884, were standing in the sole name of a married woman, or which after that time shall be placed or transferred to or into or made to stand in the sole name of a married woman, shall respectively extend and apply, so far as relates to the estate, right, title, or interest of the married woman, to any of the particulars aforesaid which, on the 25th day of March, 1884, were standing in, or which shall be placed, or transferred to or into, or made to stand in, the name of any married woman jointly with any person or persons other than her husband. 47 V. c. 19, s. 8.

As to stock, etc., standing in the joint names of a married woman and others.

12. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such particulars named in section 9, which shall after the 25th day of March, 1884, be standing in the sole name of any married woman, or in the joint names of such married woman, and any other person or persons not being her husband. 47 V. c. 19, s. 9.

Fraudulent investments with money of husband.

13. If any investment in any of the particulars set forth in section 9 shall have been made by a married woman by means of moneys of her husband, without his consent, the Court may, upon an application under section 18 of this Act, order such investment, and the dividends thereof, or any part thereof, to be transferred and paid respectively to the husband; and nothing in this Act contained shall give validity as against creditors of the husband, to any gift, by a husband to his wife, of any property, in fraud of his creditors, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any property or moneys so deposited or invested may be followed as if this Act had not been passed. 47 V. c. 19, s. 10.

Remedies of married woman for protection and security of separate property.

14. Every woman, whether married before or after this Act, shall have in her own name against all persons whomsoever, including her husband, the same remedies for the protection and security of her own separate property, as if such property belonged to her as a *feme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any proceeding under this section it shall be sufficient to allege

such property to be her property; and in any proceeding under this section a husband or wife shall be competent to give evidence against each other. 47 V. c. 19, s. 11.

15. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage; and she may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts or wrongs, and for all damages or costs recovered in respect thereof: Provided always, that nothing in this Act shall operate to increase or diminish the liability of any woman married before the commencement of this Act for any such debt, contract or wrong, as aforesaid. 47 V. c. 19, s. 12.

Wife's ante-nuptial debts and liabilities.

Proviso.

16. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, and for wrongs committed by her after marriage, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment may have been *bona fide* recovered against him in any legal proceeding, in respect of any such debts, contracts or wrongs, for or in respect of which his wife is liable; but he shall not be liable for the same any further or otherwise; and any Court in which a husband shall be sued for any such debt or liability shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount or value of such property: Provided always, that nothing in this Act contained shall operate to increase or diminish the liability of any husband married before the first day of July, 1884, for or in respect of any such debt or other liability of his wife as aforesaid. 47 V. c. 19, s. 13.

Husband to be liable for his wife's debts and other liabilities to a certain extent.

Proviso.

17. A husband and wife may be jointly sued in respect of any such debt or other liability (whether for contract or for any wrong) contracted or incurred by the wife as aforesaid if the plaintiff in the action shall seek to establish his claim either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly, if it appears that the husband is

Suits for wife's liabilities.

liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only. 47 V. c. 19, s. 14.

Questions between husband and wife as to property to be decided in a summary way.

18.—(1) In any question between husband and wife as to the title to or possession of property, either party, or any corporation, company, public body, or society in whose books any stocks, funds or shares of either party are standing, may apply by summons or otherwise, in a summary way, to a Judge of the High Court, or (at the option of the applicant, irrespectively of the value of the property in dispute) to the Judge of the County Court of the county in which either party resides, and the Judge may make such order with respect to the property in dispute, and as to the costs of and consequent on the application, as he thinks fit; or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit.

(2) Any order of a Judge of the High Court, made under the provisions of this section, shall be subject to appeal in the same way as an order made by the same Judge in an action in the said Court.

(3) Any order of a County Court, under the provisions of this section, shall be subject to appeal in the same way as any other order made by the same Court.

(4) All proceedings in a County Court, under this section, in which, by reason of the character or value of the property in dispute, such Court would not have had jurisdiction if this Act had not passed, may, at the option of the defendant or respondent to such proceedings, be removed as of right into the High Court, by writ of *certiorari*, or otherwise, as may be prescribed by any rule of the Supreme Court of Ontario; but any order made or act done in the course of the proceedings, prior to the removal, shall be valid, unless order is made to the contrary by the High Court.

(5) The Judge of the High Court, or County Court, if either party so require, may hear any such application in his private room.

(6) Any such corporation, company, public body, or society, as aforesaid, shall, in the matter of any such application, for the purposes of costs or otherwise, be treated as a stakeholder only. 47 V. c. 19, s. 15.

Married woman as an executrix or trustee.

19. A married woman, who is an executrix or administratrix, alone or jointly with any other person or persons, of the estate of any deceased person, or a trustee alone or jointly as aforesaid, of property subject to any trust, may sue or be sued, and may transfer or join in transferring, in that character, any

such particulars as mentioned in section 9, without her husband, as if she were a *feme sole*. 47 V. c. 19, s. 16.

20. Nothing in this Act contained shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement shall have any greater force or validity against creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. 47 V. c. 19, s. 17.

21.—(1) Any married woman having a decree for alimony against her husband, or any married woman who lives apart from her husband, having been obliged to leave him from cruelty or other cause which by law justifies her leaving him and renders him liable for her support, or any married woman whose husband is a lunatic with or without lucid intervals, or any married woman whose husband is undergoing sentence of imprisonment in the Provincial Penitentiary or in any gaol for a criminal offence, or any married woman whose husband from habitual drunkenness, profligacy, or other cause, neglects or refuses to provide for her support and that of his family, or any married woman whose husband has never been in this Province, or any married woman who is deserted or abandoned by her husband, may obtain an order of protection, entitling her, notwithstanding her coverture, to have and to enjoy all the earnings of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or dispositions, and without his consent, in as full and ample a manner as if she continued sole and unmarried.

(2) The married woman may at any time apply, or the husband or any of the husband's creditors may at any time on notice to the married woman, apply for the discharge of the order of protection; and if an order for such discharge is made the same may be registered or filed like the original order.

(3) Either order may issue in duplicate, and where the married woman resides in a city or town in which there is a police magistrate, the order for protection or any order discharging the same shall be made by the police magistrate, and shall be registered in the registry office of the registry division in which the city or town is situate.

(4) Where the married woman does not reside in a city or town in which there is a police magistrate, the order shall be made by the Judge or one of the Judges, or the acting or

Saving of existing settlements, and the power to make future settlements.

In what cases a married woman may obtain an order of protection for the earnings of her minor children.

Purport and effect of such order.

How and by whom an order discharging protection may be obtained.

Either order may be in duplicate. By whom to be made in cities and towns. Registration.

By whom order made elsewhere than in city or town.

deputy Judge of the Division Courts or a Division Court of the county in which the married woman resides; and instead of being registered, shall be filed for public inspection with the clerk of the Division Court of the division within which the married woman resides.

Hearing may be public or private.

(5) The hearing of an application for an order of protection, or for an order discharging the same may be public or private, at the discretion of the Judge or police magistrate.

Order not to have effect until registered.

Evidence of order, etc.

(6) The order for protection shall have no effect until it is registered or filed, and the registrar or clerk shall immediately on receiving the order endorse thereon the day of registering or filing the same; and a certificate of the registering or filing and date, signed by the registrar or clerk for the time being, shall be *prima facie* evidence of such registering or filing and date; and a copy of the order which is registered or filed certified under the hand of the registrar or clerk to be a true copy thereof, shall be sufficient *prima facie* evidence of the order without proof of the signature of the registrar or clerk, and without further proof of the order itself, or of the making or validity thereof.

From what time the order discharging protection shall take effect.

(7) The order for discharging an order of protection shall not in any case be retroactive, but shall take effect from the time it is made, and the order for protection shall protect the earnings of the minor children of the married woman until an order is made discharging such order of protection, and the married woman shall continue to hold and enjoy to her separate use whatever, during the interval between the registering or filing of the order of protection and the making of the order discharging the same, she may have acquired by the earnings of her minor children. 47 V. c. 19, s. 18.

Legal representative of married woman.

22. For the purposes of this Act the legal personal representative of any married woman shall, in respect of her separate estate, have the same rights and liabilities and be subject to the same jurisdiction as she would be if she were living. 47 V. c. 19, s. 19.

Separate personal property of wife dying intestate, how to be distributed.

23. The separate personal property of a married woman dying intestate shall be distributed in the same proportions between her husband and her children as the personal property of a husband dying intestate is to be distributed between his wife and children; and if there be no child or children living at the death of the wife so dying intestate, then such property shall pass and be distributed as if this Act had not passed. 47 V. c. 19, s. 20.

Married women's rights prior to 1st July, 1884, not affected.
47 V. c. 19.

24. This Act shall not be construed to deprive a woman married prior to the commencement of *The Married Women's Property Act, 1884*, of any right or privilege which she had at the time of the commencement of the Act, or would afterwards have if that Act had not been passed. 50 V. c. 7, s. 21.

CHAPTER 133.

An Act respecting Dower.

DOWER OUT OF EQUITABLE ESTATES, s. 1.	PROVISIONS FOR CONVEYING FREE FROM DOWER WHERE WIFE DIS-ENTITLED OR A LUNATIC, ss. 9, 10.
DOWER WHERE HUSBAND HAD A RIGHT OF ENTRY, s. 2.	JUDGE'S ORDERS AS TO DOWER, ss. 11, 12.
DOWER NOT RECOVERABLE OUT OF WILD LANDS, s. 3.	APPLICATION OF SECTS. 9-12, s. 13.
DOWER <i>ad ostium ecclesie</i> and <i>ex assensu patris</i> ABOLISHED, s. 4.	REGISTRATION OF ORDERS, ss. 14-16.
EFFECT OF BAR OF DOWER IN MORTGAGES, ss. 5-8.	INDORSEMENT OF ORDERS ON DEED, ss. 15-17.
	DEEDS BARRING DOWER BEFORE 2ND MARCH, 1877, CONFIRMED, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where a husband dies beneficially entitled to any land for an interest which does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is an estate of inheritance in possession, or equal to an estate of inheritance in possession, (other than an estate in joint tenancy), then his widow shall be entitled to dower out of the same land. R. S. O. 1877, c. 126, s. 1.

2. Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband did not recover possession thereof; but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced. R. S. O. 1877, c. 126, s. 2.

3. Dower shall not be recoverable out of any separate and distinct lot, tract or parcel of land, which, at the time of the alienation by the husband or at the time of his death, if he died seised thereof, was in a state of nature, and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation; but this shall not restrict or diminish the right to have woodland assigned to the dowress under section 12 of *The Dower Procedure Act*, from which it shall be lawful for her to take firewood necessary for her own use, and timber for fencing the other portions of land assigned to her of the same lot, tract or parcel. R. S. O. 1877, c. 126, s. 3.

Certain dower abolished.

4. No widow shall be entitled to dower *ad ostium ecclesie*, or dower *ex assensu patris*. R. S. O. 1877, c. 126, s. 4.

Effect of bar of dower in mortgages.

5. No bar of dower contained in any mortgage, or other instrument intended to have the effect of a mortgage or other security, upon real estate, shall operate to bar such dower to any greater extent than shall be necessary to give full effect to the rights of the mortgagee or grantee under such instrument. 42 V. c. 22, s. 1.

Wife entitled to dower in surplus of purchase money arising from sale under mortgage.

6. In the event of a sale of the land comprised in such mortgage or other instrument, under any power of sale contained therein or under any legal process, the wife of the mortgagor or grantor who shall have so barred her dower in such lands, shall be entitled to dower in any surplus of the purchase money arising from such sale, which may remain after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land from which such surplus purchase money shall be derived had the same not been sold. 42 V. c. 22, s. 2.

Payment of money into Court.

7.—(1) A mortgagee or other person holding any money out of which a married woman shall be dowable under the preceding two sections of this Act may pay the same into the High Court to the credit of such married woman and the other persons interested therein.

Order for securing right of dower.

(2) The High Court or a Judge thereof, may on a summary application by petition or motion, make such order for securing the right of dower of any married woman, in any money out of which she shall be dowable, as may be just. 42 V. c. 22, s. 3.

Widow's election.

8. A widow shall not be entitled to take her interest in money under the preceding two sections of this Act, and in addition thereto a share of the money as personal estate. 42 V. c. 22, s. 4.

Application in order to mortgage or sell free from dower where wife disentitled.

9.—(1) Where the wife of an owner of land has been living apart from him for two years under such circumstances as by law disentitle her to alimony, and such owner is desirous of selling or mortgaging the land free from dower, he may apply to a Judge of the High Court, and, if the Judge approves, he may, by an order to be made by him in a summary way, upon such evidence as to the Judge seems meet, and either *ex parte* or upon notice (to be served personally unless the Judge otherwise directs), dispense with the concurrence of the wife for the purpose of barring her dower, and he shall (unless the wife has been so living apart from her husband under such circumstances as disentitle her to dower) ascertain and state in the order the value of such dower, and order such amount to remain a charge upon the property, or to be secured otherwise for the

wife's benefit, or to be paid and applied for her benefit as he deems best; and thereupon a conveyance or mortgage by the husband, expressed to be free from his wife's dower, shall, subject to any terms mentioned in the order, be sufficient to bar her right thereto, as if she had duly executed a deed jointly with her husband for that purpose. R. S. O. 1877, c. 126, s. 10 (1); 41 V. c. 8, s. 13; 44 V. c. 14, s. 1.

(2) This section shall apply to any case in which an agreement for sale had been made, and a conveyance executed by the husband before the 5th day of March, 1880, and part of the purchase money retained by the purchaser on account of dower, or an indemnity given against such dower. R. S. O. 1877, c. 126, s. 9, *part*; 43 V. c. 14, s. 4.

10. —(1) Where an owner of land whose wife is a lunatic, or of unsound mind, and confined as such in a Lunatic Asylum, is desirous of selling or mortgaging the land free from dower, he may apply in that behalf to the Judge of the County Court of the county in which he resides or to a Judge of the High Court, and if the Judge approves, he may, by an order to be made by him in a summary way, upon such evidence as to the Judge seems meet, and either *ex parte* or upon such notice as he may deem requisite, dispense with the concurrence of the wife for the purpose of barring her dower, and also he shall ascertain and state in the order the value of such dower, and order such amount to remain a charge upon the property, or to be secured otherwise for the wife's benefit, or to be paid and applied for her benefit as he deems best, and thereupon a conveyance or mortgage by the husband, expressed to be free from his wife's dower, shall, subject to the terms and conditions mentioned in the order, be sufficient to bar her right thereto, as if she were of sound mind, and had duly executed a deed jointly with her husband for that purpose.

Dower, or conveyance when wife is a lunatic confined in an asylum.

Dower, to be ascertained and to be charge on land or secured for wife's benefit.

(2) On every such application the Judge shall be entitled to his own use to a fee of \$5, and no other fee or charge of any kind shall be payable in respect thereof. R. S. O. 1877, c. 126, s. 8 (1, 2); 44 V., c. 14, s. 3.

(3) This section shall apply to any case in which an agreement for sale has been made and a conveyance has been executed by the husband, and any part of the purchase money has been retained by the purchaser on account of dower, and to any case in which an indemnity has been given against the dower of the wife. R. S. O. 1877, c. 126, s. 9, *part*; 43 V. c. 14, s. 4.

Similar application to ascertain dower in certain other cases.

11. In case the gaol surgeon of any county or district in which a married woman resides, and another medical practitioner to be named by the Judge, shall each certify (Form A) that he has personally examined such married woman and that he is of opinion that she is insane, and the Judge of the County Judge's order as to dower where wife is lunatic but not confined in an asylum.

Court of the county in which such married woman resides, or a Judge of the High Court, also certifies (Form B) that he has personally examined such married woman, and that from such examination and from the evidence adduced before him, if such Judge thinks it expedient to hear evidence, he is of opinion that such married woman is insane, the said Judge may make the like order as by the preceding section of this Act, is authorized in the case of a married woman of unsound mind who is confined in an asylum for the insane. The examination and certificates required by this section must all be made and granted within a period of one month, or such certificates shall not be acted upon by the said Judge, and the application shall not be entertained unless it is made within one month of the day upon which the last of such examinations took place. 44 V. c. 14, s. 2.

Subsequent orders by judge as to other sales or mortgages.

12. In case a Judge makes an order under any of the preceding three sections of this Act, with reference to any parcel of land, he may afterwards make orders in respect of other sales or mortgages, either on the like evidence as is required for the first application, or on any other evidence which may satisfy him, of the continued insanity of the married woman. 44 V. c. 14, s. 4.

Application of ss. 9, 10, 11 and 12.

13. Sections 9, 10, 11 and 12 of this Act shall apply to any case where any person owns, or has the right to sell or mortgage (whether as trustee or otherwise), land which is subject to dower, whether such dower is inchoate or complete, and whether the person applying is or is not the husband of the dowress. 46 V. c. 12, s. 1.

Registration of order.

14. The order may be in duplicate or in as many parts as are necessary, and shall be signed by the Judge, and may be registered in the registry office of the registry division wherein the lands to which the same relates are situate, upon its production and deposit, without any proof thereof; and such registration may take place either before or after the execution of the deed made in pursuance of such order. R. S. O. 1877, c. 126, ss. 8 (3), 10 (2); c. 127, s. 6; 44 V., c. 14, s. 6.

Order may be indorsed on deed.

15. The order may, if desired, be indorsed or written upon the deed to which the same relates, in which case it shall be registered as part of the deed. R. S. O. 1877, c. 126, ss. 8 (3), 10 (2); c. 127, s. 7; 44 V., c. 14, s. 6.

Fee for registration of order.

16. For the registration of the order including all necessary entries and certificates, the registrar shall be entitled to a fee of \$1, unless the order is indorsed or written upon the deed in which case no fee shall be payable in respect of the registration thereof. R. S. O. 1877, c. 126, ss. 8 (3), 10 (2); c. 127, s. 8; 44 V., c. 14, s. 6.

17. If the order is indorsed or written upon the deed to be made in pursuance thereof, the real estate to which the same relates may be described in the order by reference to the description contained in the deed. R. S. O. 1877, c. 126, ss. 8 (3), 10 (2); c. 127, s. 10; 44 V. c. 14, s. 6.

Description of land in order when order indorsed on deed.

18. Where a husband has before the second day of March, 1877, duly conveyed land of which he was owner, any deed or conveyance executed before the said day by his wife for the purpose of barring her dower, to which deed or conveyance her husband is not a party, is and shall be taken and adjudged to be valid and effectual to have barred her dower in the lands in which such deed or conveyance professed to bar dower, notwithstanding the absence or want of a certificate touching her consent to be barred of her dower, and notwithstanding any irregularity, informality, or defect in the certificate (if any), and notwithstanding that such deed or conveyance may not have been executed, acknowledged or certified, as required by any Act on or before the said day in force, respecting the barring of dower. R. S. O. 1877, c. 126, s. 11

Deeds barring dower before 2nd March, 1877, confirmed.

FORM A.

(Section 11.)

CERTIFICATE OF MEDICAL PRACTITIONER.

I, the undersigned (here set forth the qualification or degree of the person certifying: for example, "Licentiate of the Medical Board," "M.D. of the University of Toronto," etc.) a
legally qualified Medical Practitioner, residing and practising at
in the County of _____ do hereby certify that I, on the
day of _____ A.D. 18____, at
in the County of _____ separately from any other Medical
Practitioner, personally examined A. B. of the Township of
in the County of _____ wife of C. D., of the Township of
in the County of _____ and I further certify that the said
is insane and that I have formed this opinion upon the following
grounds namely: (here state the facts upon which the Certificate is based).

Signed this _____ day of _____
A.D. 18____, at _____ in the County of _____

44 V. c. 14, Form A.

FORM B.

(Section 11.)

CERTIFICATE OF JUDGE.

Province of Ontario. }
County of }

I, the undersigned, *E. F.*

Judge of the County Court of the County of
do hereby certify that I on the day of
A.D. 18 , personally examined *A. B.*, of the of
in the County of wife of *C. D.* of the of
in the County of and I do hereby further
certify that from such personal examination (and from the evidence of
G. H. and *J. K.* adduced before me, *if evidence has been taken by the judge*)
I am of opinion that the said is insane.
Signed this day of A.D. 18 , at
in the County of

44 V. c. 14, *Form B.*

CHAPTER 134.

An Act to facilitate the conveyance of Real Estate by Married Women.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario
enacts as follows:—

Short title.

1. This Act may be cited as "*The Married Woman's Real Estate Act.*" R. S. O. 1877, c. 127, s. 1.

Interpretation

2. In the construction of this Act

"Real estate."

1. "Real estate" shall extend to lands, chattels real, rents and hereditaments, whether corporeal or incorporeal, and to any undivided share thereof; to any estate, right or interest therein, whether legal or equitable; to any charge, lien or incumbrance in, upon, or affecting real estate, to money subject to be invested in real estate; and to any interest, charge, lien or incumbrance in, upon, or affecting such money as aforesaid.

"Judge."

2. "Judge" shall mean a Judge of the High Court or a Judge or a Junior or Deputy Judge of a County Court. R. S. O. 1877, c. 127, s. 2.

A married
woman
may convey
real estate.

3. Every married woman being of the full age of twenty-one years, may, by deed, convey her real estate, and convey release, surrender, disclaim, or extinguish any interest therein,

and may also, by deed, release or extinguish any power which may be vested in, or limited or reserved to her in regard to real estate; and may also, by deed, bar her dower, and any right or inclosed right of dower in any real estate; and may also, by deed, appoint an attorney or attorneys for the purposes aforesaid and every of them as fully and effectually as she could do if she were a *feme sole*. R. S. O. 1877, c. 127, s. 3; 47 V. c. 19, s. 22.

4. Every conveyance before the 29th day of March, 1873, executed by a married woman of or affecting her real estate, in which her husband was a party, is, and shall be taken and adjudged to be valid and effectual to have passed the estate which such conveyance professed to pass of such married woman in the said real estate, notwithstanding the absence or want of a certificate of her consent to convey the same; and notwithstanding any irregularity, informality, or defect in the certificate (if any); and notwithstanding that such conveyance may not have been executed, acknowledged or certified as required by any Act at or before the said date in force respecting the conveyance of real estate by married women, or may not have been executed by the married woman in presence of her husband, or on the same day on which or at the same place at which such conveyance was executed by her husband. R. S. O. 1877, c. 127, s. 13.

Defective conveyances to be valid.

5. Nothing in the preceding sections contained shall render valid any conveyance to the prejudice of any title, subsequently to the execution of such conveyance and before the said date acquired from the married woman by deed duly executed and certified as by law required, unless the actual possession or enjoyment of the real estate conveyed or intended to be conveyed by the prior conveyance has been had at any time subsequent thereto by the grantee therein, or those claiming by, from or under him, and he or they have been in such actual possession or enjoyment, continuously for the period of three years before the said date, and he or they were at the said date in the actual possession or enjoyment thereof; and nothing in this Act contained shall render valid any conveyance from the married woman which was not executed in good faith, or any conveyance of land of which the married woman or those claiming under her, is or are in the actual possession or enjoyment contrary to the terms of such conveyance. R. S. O. 1877, c. 127, s. 14.

Certain titles not to be prejudiced.

6. Every conveyance made since the 29th day of March, 1873, or which shall hereafter be made by a married woman of or affecting her real estate which her husband signed or executed or shall sign or execute is and shall be taken and adjudged to be valid and effectual, to have passed or to pass the estate which such conveyance professed or shall profess to pass of such married woman in said real estate. 50 V. c. 7, s. 23.

Validity of conveyances made since March 29th, 1873.

Certain titles
not to be
prejudiced.

7. Nothing in the preceding section contained shall render valid any conveyance to the prejudice of any title lawfully acquired from any married woman prior to the 23rd day of April, 1887, nor render valid any conveyance from the married woman not executed in good faith or any conveyance of any land, of which the married woman, or those claiming under her, was or were on the said day in actual possession or enjoyment contrary to the terms of such conveyance, or affect any action or proceeding then pending. 50 V. c. 7, s. 24.

Preceding two
sections not to
affect con-
struction of
any statute.

8. Neither of the preceding two sections shall be deemed to declare or imply any construction of any statute heretofore passed, as affecting the matters mentioned in the said sections or either of them, or any other matters relating to the rights or powers of married women. 50 V. c. 7, s. 25.

CHAPTER 135.

An Act respecting Compensation to the Families of Persons killed by Accident, and in Duels.

HER MAJESTY by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpre-
tation.

1. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

“Parent.”

1. “Parent” shall include father, mother, grandfather, grandmother, stepfather and stepmother; and

“Child.”

2. “Child” shall include son, daughter, grandson, granddaughter, stepson and stepdaughter. R. S. O. 1877, c. 128, s. 1.

Action given
to recover
damages for the
death of any
person caused
by any wrong-
ful act, ne-
glect, or
default.

2. Where the death of a person has been caused by such wrongful act, neglect or default, as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, in such case the person who would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death has been caused under such circumstances as amount in law to felony. R. S. O. 1877, c. 128, s. 2.

3. Every such action shall be for the benefit of the wife, husband, parent and child of the person whose death has been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased, and in every such action the Judge or jury may give such damages as he or they think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action has been brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before mentioned parties in such shares as the Judge or jury find and direct. R. S. O. 1877, c. 128, s. 3.

For whose benefit and in whose name such action shall be brought. What damages may be given.

4. Where the death of a person has been caused by any wound or injury received in a duel, which wound or injury has been inflicted by the use of any description of fire-arms or other deadly weapon whatsoever, in such case the person inflicting such wound or injury, and all persons present aiding or abetting the parties in such duel as seconds or assistants therein, may be proceeded against under this Act, although no action for damages could have been brought by the person whose death was so caused had death not ensued from the infliction of such wound or injury. R. S. O. 1877, c. 128, s. 4.

Action may be brought against principals, seconds and abettors in duels.

5. Not more than one action shall lie for and in respect of the same subject matter of complaint; and every such action shall be commenced within twelve months after the death of the deceased person. R. S. O. 1877, c. 128, s. 5.

One action only to lie for the same cause. Limitation thereof.

6. In every such action the plaintiff shall, in his statement of claim, set forth or deliver therewith full particulars of the persons for whom and on whose behalf such action is brought. R. S. O. 1877, c. 128, s. 6.

Plaintiff to deliver particulars.

7. If, and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by this Act, that there shall be no executor or administrator of the person so deceased, or that there being such executor or administrator, no such action as in this Act mentioned, shall, within six months after the death of such deceased person, have been brought by and in the name of his or her executor or administrator, then and in every such case, such action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit such action would have been, if it had been brought by and in the name of such executor or administrator; and every action so to be brought, shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of such executor or administrator. 49 V. c. 26, s. 1.

Where no action brought within six months by executors of person killed, then action may be brought by persons beneficially interested in result of action.

Money paid into court may be paid in one sum without regard to its division into shares. If not accepted defendant entitled to verdict on issue as to sufficiency if judge or jury think it sufficient.

8. And whereas by section 3 it is provided that the Judge or jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and whose benefit such action shall be brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided between the before mentioned parties in such shares as the Judge or jury shall by their verdict direct; be it enacted and declared, that it shall be sufficient, if the defendant is advised to pay money into Court, that he pay it as a compensation in one sum to all persons entitled under this Act for his wrongful act, neglect or default, without specifying the shares into which it is to be divided by the Judge or jury; and if the said sum be not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the Judge or jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue. 49 V. c. 26, s. 2.

Apportionment.

9. In all cases where the compensation is not apportioned as hereinbefore provided, it shall be referred to a Judge to apportion the same among the parties entitled and to provide for the costs thereof as he may think meet. 50 V. c. 8, Sched

CHAPTER 136.

An Act to Secure to Wives and Children the Benefit of Life Insurance.

APPLICATION OF ACT, s. 1.	Investment of shares of infants, s. 13.
INSURANCES BEFORE 18TH SEPTEMBER, 1865, s. 2.	Security by guardian, s. 14.
PERSONS MAY INSURE FOR BENEFIT OF WIFE OR CHILDREN, s. 3.	Payment into Court, s. 15.
MODE OF INSURANCE, s. 4.	POWER TO SURRENDER POLICY, s. 16.
INSURED MAY DECLARE POLICY FOR BENEFIT OF WIFE OR CHILDREN, s. 5.	POWER TO BORROW ON POLICY, s. 17.
INSURED MAY APPORTION INSURANCE MONEY, s. 6.	INSURED MAY DIRECT APPLICATION OF BONUSES AND PROFITS, s. 18.
DISTRIBUTION WHERE NO APPORTIONMENT MADE, s. 7.	ACTIONS FOR INSURANCE MONEY, s. 19.
PROVISION AS TO SHARE OF A BENEFICIARY DYING AFTER APPORTIONMENT IN LIFETIME OF INSURED, s. 8.	APPLICATIONS OF SECTS. 12, 15 AND 19, s. 20.
PROVISION ON DEATH OF PERSONS ENTITLED WHERE NO APPORTIONMENT, s. 9.	NOTICE OF DECLARATION REQUIRED, s. 21.
INSURANCE MONEY NOT LIABLE TO CREDITORS, s. 10.	FRAUD IN PAYMENT OF PREMIUMS, s. 22.
APPOINTMENT OF TRUSTEES, s. 11.	ACT NOT TO AFFECT OTHER MODES OF ASSIGNMENT, s. 23.
Payment of shares of infants where no trustee, s. 12.	POWER OF INSURED AND OF ADULTS TO DEAL WITH POLICY, s. 24.
	PERSON ENTITLED TO BENEFIT OF POLICY FOR PURPOSE OF SECT. 23, s. 25.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The provisions of this Act shall apply to every lawful contract of insurance now in force or hereafter effected which is based on the expectation of human life, and shall include life insurance on the endowment plan as well as every other, and shall also extend to the said contracts of insurance where any declaration indorsed thereon or attached thereto, though made before the 25th day of March, 1884, would have been or be within the operation and provisions of this Act, if the same had been made subsequent to the said date. 47 V. c. 20, s. 1 ; 48 V. c. 28, s. 6. Application of Act.

2. It is hereby declared to have been lawful for any person on or before the 18th day of September, 1866, to endorse upon or attach to any policy of insurance on his life effected and issued before the 18th day of September, 1865, whether the policy was issued before or after marriage, a written declaration that the insurance was for the benefit of his wife, or of Insurances effected before 18th September, 1865, might within one year be declared in favour of wife or children.

his wife and children, or of his wife and some or one of his children, or of his children only, or of some or one of them, and to apportion the amount of the insurance money as he deemed proper where the insurance was declared to be for the benefit of more than one. 47 V. c. 20, s. 2.

Persons may insure for the benefit of wives or children.

3. Any person may insure his life for the whole term thereof, or for any definite period, for the benefit of his wife, or of his wife and children, or of his wife and some or one of his children, or of his children only or of some or one of them, and, where the insurance is effected for the benefit of more than one, he may apportion the amount of the insurance money as he may deem proper. 47 V. c. 20, s. 3.

How insurance may be effected.

4. The insurance may be effected either in the name of the person whose life is insured, or in the name of his wife, or of any other person (with the assent of such other person) as trustee. 47 V. c. 20, s. 4.

Insured may declare policy for the benefit of wife and children.

5. In case a policy of insurance effected by a married man on his life is expressed upon the face of it to be for the benefit of his wife or of his wife and children or any of them, or in case he has heretofore endorsed, or may hereafter endorse, or by any writing identifying the policy by its number or otherwise, has made or may hereafter make a declaration that the policy is for the benefit of his wife, or of his wife and children or any of them, such policy shall enure, and be deemed a trust for the benefit of his wife for her separate use, and of his children or any of them, according to the intent so expressed or declared, and so long as any object of the trust remains the money payable under the policy shall not be subject to the control of the husband or his creditors, or form part of his estate when the sum secured by the policy becomes payable; but this shall not be held to interfere with any pledge of the policy to any person prior to such declaration. 47 V. c. 20, s. 5.

Insured may make and alter apportionment.

6.—(1) The insured may by an instrument in writing attached to or endorsed on, or identifying the policy by its number or otherwise, vary an apportionment previously made, so as to extend the benefits of the policy to the wife or the children, or to one or more of them, although the policy is expressed to be for the benefit of the wife alone, or for the child or children alone, or although a prior declaration was so restricted; and he may also apportion the insurance money among the persons intended to be benefited; and may, from time to time, by an instrument in writing attached to or endorsed on the policy or referring to the same, alter the apportionment as he deems proper; he may also, by his will, make or alter the apportionment of the insurance money; and an apportionment made by his will shall prevail over any other made before the date of the will, except so far as such other apportionment has been acted on before notice of the apportionment by the will.

(2) This section applies to policies heretofore issued, as well as to future policies. 50 V. c. 7, s. 14.

7.—(1) Where no apportionment is made, all persons entitled to be benefited by the insurance shall be held to share equally in the same; and where it is stated in the policy or declaration that the insurance is for the benefit of the wife and children generally, or of the children generally, without specifying the names of the children, the word "children" shall be held to mean all the children of the insured living at the maturity of the policy, whether by his then or any former wife, and the wife to benefit by the policy shall be the wife living at the maturity thereof: Where no apportionment is made.

(2) Any such policy may be surrendered or assigned,

(a) Where the policy is for the benefit of children only, and the children surviving are all of the full age of twenty-one years, if the person insured and all such surviving children agree to so surrender or assign; or

(b) Where the policy is for the benefit of both a wife and children, and the surviving children are all of the full age of twenty-one years, if the person insured, and his then wife (if any) and all such surviving children agree to so surrender or assign; or

(c) Where the policy is for the benefit of a wife only, or of a wife and children, and there are no children living, if the person insured and his then wife agree to so surrender or assign. 47 V. c. 20, s. 7; 48 V. c. 28, s. 1.

8. Where an apportionment, as in sections 2, 3 and 6 provided for, has been made, if one or more of the persons in whose favour the apportionment has been made die in the lifetime of the insured, the insured may, by an instrument in writing, attached to or endorsed on or otherwise referring to and identifying the policy of insurance, declare that the share formerly apportioned to the person so dying shall be for the benefit of such other person or persons as he may name in that behalf, not being other than the wife and children of the insured or one or more of them; and in default of any such declaration, the share of the person so dying shall be the property of the insured, and may be dealt with and disposed of by him as he may see fit, and shall at his death form part of his estate. 47 V. c. 20, s. 8; 48 V. c. 28, s. 5. Provision as to share of any beneficiary dying where apportionment made.

9. Where no apportionment as in sections 2, 3 and 6 provided for has been made, if one or more of the persons entitled to the benefit of the insurance die in the lifetime of the insured, and no apportionment is subsequently made by the insured, the insurance shall be for the benefit of the survivor, Provision in case of death of persons entitled where no apportionment made.

Apportionment after death of all persons entitled.

or of the survivors of such persons in equal shares if more than one; and if all the persons so entitled die in the lifetime of the insured, the policy and the insurance money shall form part of the estate of the insured; or after the death of all the persons entitled to such benefit, the insured may by an instrument executed as aforesaid make a declaration that the policy shall be for the benefit of his then or any future wife or children, or some or one of them. 47 V. c. 20, s. 9; 48 V. c. 28, s. 5.

Insurance money not liable to creditors.

10.—(1) When the insurance money becomes due and payable it shall be paid according to the terms of the policy or of any declaration or instrument as aforesaid, as the case may be, free from the claims of any creditors of the insured, except as herein provided.

(2) Where the insurance money or part thereof is for the benefit, in whole or in part, of the children of the insured, and the children are mentioned as a class and not by their individual names, the money shall not be payable to the children until reasonable proof is furnished to the company of the number, names and ages of the children entitled. 47 V. c. 20, s. 10.

Appointment of trustees.

11. The insured may, by the policy or by his will or by any writing under his hand, appoint a trustee or trustees of the money payable under the policy, and may from time to time revoke such appointment in like manner, and appoint a new trustee or new trustees and make provision for the appointment of a new trustee or new trustees, and for the investment of the moneys payable under the policy. Payment made to such trustee or trustees shall discharge the company. 47 V. c. 20, s. 11.

Where no trustee payment of shares of infants.

12. If no trustee is named in the policy, or appointed as mentioned in section 11, to receive the shares to which infants are entitled, their shares may be paid to the executors of the last will and testament of the insured, or to a guardian of the infants duly appointed by one of the Surrogate Courts of this Province or by the High Court, or to a trustee appointed by the last named Court, upon the application of the wife, or of the infants or their guardian; and such payment shall be a good discharge to the insurance company. 47 V. c. 20, s. 12.

Investment of shares of infants.

13. Any trustee named as provided for in the last preceding two sections, and any executor or guardian may invest the money received in government securities or municipal debentures or in mortgages of real estate, or in any other manner authorized by the will of the insured, or by section 30 of *The Act respecting Trustees and Executors and the Administration of Estates*, and may from time to time alter, vary and transpose the investments, and apply all or any part of the annual income arising from the share or presumptive share of each of the children, in or towards his or her maintenance and

education, in such manner as the trustee, executor or guardian thinks fit, and may also advance to and for any of the children, notwithstanding his or her minority, the whole or any part of the share of the child of and in the money, for the advancement or preferment in the world, or on the marriage, of such child. 47 V. c. 20, s. 13.

14 A guardian appointed under section 12 shall give security to the satisfaction of the Court or Judge for the faithful performance of his duty as guardian, and for the proper application of the money which he may receive. Where the amount of the insurance money payable to a guardian of infants does not exceed \$400, and probate is sought in respect of a will for the sole purpose of obtaining insurance money to an amount not exceeding \$400, the fees payable on the appointment of such guardian or executor shall be \$4 and no more, and such fees shall be regulated in the manner prescribed by section 69 of *The Surrogate Courts Act*. 47 V. c. 20, s. 14. Security by guardian.
Fees where insurance not more than \$400.
Rev.Stat.c.50

15.—(1) If there is no trustee, executor or guardian competent to receive the share of any infant in the insurance money, and the insurance company admit the claim or any part thereof, the company at any time after the expiration of two months from the date of their admission of the claim or part thereof, may obtain an order from the High Court for the payment of the share of the infant into Court; and in such case the costs of the application shall be paid out of the share (unless the Court otherwise directs), and the residue shall be paid into Court pursuant to the order; and such payment shall be a sufficient discharge to the company for the money paid; and the money shall be dealt with as the Court may direct. 47 V. c. 20, s. 15. Power to company to pay money into court.

(2) If the company does not within four months from the time the claim is admitted, either pay the same to some person competent to receive the money under this Act, or pay the same into the High Court, the said Court may upon application made by some one competent to receive the said money, or by some other person, on behalf of the infant, order the insurance money, or any part thereof, to be paid to any trustee, executor or guardian competent to receive the same, or to be paid into Court to be dealt with as the Court may direct, and any such payment shall be a good discharge to the company.

(3) The Court may order the costs of the application, and any costs incidental to establishing the authority of the party applying for the order, to be paid out of such moneys, or by the company, or otherwise, as may seem just, and the Court may also order the costs of, and incidental to, obtaining out of Court moneys voluntarily paid in by a company, to be paid out of such moneys. 48 V. c. 28, s. 3.

Power to sur-
render policy.

16. If a person who has heretofore effected, or who hereafter effects, an insurance for the purposes contemplated by this Act, whether the purpose appears by the terms of the policy or by endorsement thereon, or by an instrument referring to and identifying the policy, finds himself unable to continue to meet the premiums, he may surrender the policy to the company, and accept in lieu thereof a paid-up policy for such sum as the premiums paid would represent, payable at death or at the endowment age or otherwise (as the case may be), in the same manner as the money insured by the original policy if not surrendered would have been payable; and the company may accept the surrender and grant the paid-up policy, notwithstanding any declaration or direction in favour of the wife and children, or any or either of them. 47 V. c. 20, s. 16.

Power to bor-
row on the
policy.

17. The person insured may, from time to time, borrow from the company insuring, or from any other company or person, on the security of the policy, such sums as may be necessary and shall be applied to keep the policy in force, and on such terms and conditions as may be agreed on; and the sums so borrowed, together with such lawful interest thereon as may be agreed, shall, so long as the policy remains in force, be a first lien on the policy and on all moneys payable thereunder, notwithstanding any declaration or direction in favour of the wife and children, or any or either of them. 47 V. c. 20, s. 17.

Insured may
direct applica-
tion of bonuses
and profits.

18. Any person insured under the provisions of this Act, may, in writing, require the insurance company to pay the bonuses or profits accruing under the policy, or portions of the same, to the insured; or to apply the same in reduction of the annual premiums payable by the insured, in such way as he may direct; or to add the said bonuses or profits to the policy; and the company shall pay or apply such bonuses or profits as the insured directs and according to the rates and rules established by the company; provided always, that the company shall not be obliged to pay or apply such bonuses or profits in any other manner than stipulated in the policy or the application therefor. This section applies to policies made before the 4th day of March, 1881, and to bonuses and profits then declared in respect of such policies, as well as to policies thereafter made and hereafter to be made. 47 V. c. 20, s. 18.

Proviso.

As to actions
for insurance
money.

19. In case of several actions being brought for insurance money, the Court is to consolidate or otherwise deal therewith so that there shall be but one action for and in respect of the shares of all the persons entitled under a policy. If an action is brought for the share of one or more infants entitled, all the other infants entitled, or the trustees, executors or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the

infants shall be dealt with and determined in one action. The persons entitled to receive the shares of the infants may join with any adult persons claiming shares in the policy. In all actions where several persons are interested in the money, the Court or Judge shall apportion among the parties entitled any sum directed to be paid, and shall give all necessary directions and relief. 47 V. c. 20, s. 19.

20. The provisions of sections 12, 15 and 19 of this Act shall extend, and are hereby declared to have been intended to extend, and apply to cases where the insured died before the 25th day of March, 1884, as well as to cases arising subsequent thereto. 48 V. c. 28, s. 4.

Application of ss. 12, 15 and 19.

21. No declaration, or apportionment affecting the insurance money, or any portion thereof, nor any appointment or revocation of a trustee made after the 25th day of March, 1884, shall be of any force or effect as respects the company, until the instrument or a duplicate or copy thereof, is deposited with the company. Where a declaration or endorsement has been heretofore made and notice has not been given, the company may, until they receive notice thereof, deal with the insured or his executors, administrators or assigns, in respect of the policy, in the same manner and with the like effect as if the declaration or endorsement had not been made. 47 V. c. 20, s. 20.

Notice of declaration, etc., required.

22. If the policy was effected and premiums paid by the insured with intent to defraud his creditors, the creditors shall be entitled to receive out of the sum secured an amount equal to the premiums so paid. 47 V. c. 20, s. 21.

Fraud in payment of premiums.

23. Nothing contained in this Act shall be held or construed to restrict or interfere with the right of any person to effect or assign a policy for the benefit of his wife or children or some or one of them, in any other mode allowed by law. 47 V. c. 20, s. 22.

Act not to affect other modes of assignment.

24. Where all the persons entitled to be benefited under any policy are of full age, they and the person insured may surrender the policy, or assign the same, either absolutely or by way of security. 47 V. c. 20, s. 23.

Power of insured and adults to deal with policy.

25. Where the declaration endorsed upon or attached to any policy of insurance to which this Act applies, whether such declaration has heretofore been or shall hereafter be made, provides that the policy shall be for the benefit of a person, and in the event of the death of such person for the benefit of another person, such first mentioned person shall, if living, be deemed for the purposes of section 24 of this Act, the person entitled to be benefited under such policy. 48 V. c. 28, s. 2.

Who deemed person entitled to benefit of policy for purpose of s. 24.

2. PARENT AND CHILD.

CHAP. 137. RESPECTING INFANTS. p. 1276.

“ 138. SUPPORT OF ILLIGITIMATE CHILDREN, p. 1282.

CHAPTER 137.

An Act respecting Infants.

CUSTODY OF INFANTS, ss. 1-2.
 INFANT'S REAL ESTATE, ss. 3-9.
 GUARDIANS, ss. 10-18.

Appointment, ss. 10-14.
 Direction by Court, s. 15.
 Removal, s. 16.
 Authority, s. 18.

POWER OF SURROGATE COURTS IN MAT-
 TERS OF GUARDIANSHIP, ss. 19, 20.
 COMPULSORY ATTENDANCE OF WIT-
 NESSES, s. 21.
 FATHER'S AUTHORITY IN RESPECT OF
 RELIGIOUS FAITH OF CHILD, s. 22.
 APPLICATION OF SECTS. 1 AND 13-16,
 s. 23.

HER MAJESTY, by and with the advice and consent of the
 Legislative Assembly of the Province of Ontario, enacts
 as follows:—

CUSTODY OF INFANTS.

Court may
 make order as
 to custody of
 and right of
 access to
 infants.

1.—(1) The High Court or Surrogate Court, or any Judge of
 either Court, may, upon the application of the mother of an
 infant (who may so apply without next friend) make such
 order as the Court or Judge sees fit regarding the custody of
 the infant, and the right of access thereto of either parent,
 having regard to the welfare of the infant, and to the conduct
 of the parents, and to the wishes as well of the mother as of
 the father, and may afterwards alter, vary or discharge the
 order on the application of either parent, or, after the death of
 either parent, or any guardian under the Act, and in every
 case may make such order respecting the costs of the mother
 and the liability of the father for the same, or otherwise as to
 costs as the Court or Judge may think just.

Order as to
 maintenance.

(2) The Court or Judge may also make order for the
 maintenance of the infant by payment by the father thereof,
 or by payment out of any estate to which the infant is

entitled, of such sum or sums of money from time to time as according to the pecuniary circumstances of the father or the value of the estate the Court or Judge thinks just and reasonable. 50 V. c. 21, s. 1.

2. No order directing that the mother shall have the custody of or access to an infant shall be made by virtue of this Act, in favour of a mother against whom adultery has been established by judgment in an action for criminal conversation at the suit of her husband against any person. R. S. O. 1877, c. 130, s. 4.

Order not to be made in favour of mother guilty of adultery.

INFANT'S REAL ESTATE.

3.—(1) Where an infant is seised or possessed of or entitled to any real estate in fee or for a term of years, or otherwise howsoever, in Ontario, and the High Court is of opinion that a sale, lease or other disposition of the same, or of a part thereof, is necessary or proper for the maintenance or education of the infant, or that, by reason of any part of the property being exposed to waste and dilapidation, or to depreciation from any other cause, his interest requires or will be substantially promoted by such disposition, the Court may order the sale, or the letting for a term of years, or other disposition of such real estate, or any part thereof, to be made under the direction of the Court or one of its officers, or by the guardian of the infant, or by a person appointed by the Court for the purpose, in such manner and with such restrictions as to the Court may seem expedient, and may order the infant to convey the estate as the Court thinks proper. R. S. O. 1877, c. 40, s. 76.

A sale of the estate of infants may be made.

(2) But no sale, lease, or other disposition shall be made against the provisions of a will or conveyance by which the estate has been devised or granted to the infant or for his use. R. S. O. 1877, c. 40, s. 77.

No sale contrary to devise.

4. The application shall be in the name of the infant by his next friend, or by his guardian; but shall not be made without the consent of the infant if he is of the age of fourteen years or upwards. R. S. O. 1877, c. 40, s. 78.

The application to be by next friend or guardian.

5. Where the Court deems it convenient that a conveyance should be executed by some person in the place of an infant, the Court may direct some other person in the place of the infant to convey the estate. R. S. O. 1877, c. 40, s. 79.

When a substitute person has been appointed to convey.

6. Every such conveyance, whether executed by the infant or some person appointed to execute the same in his place, shall be as effectual as if the infant had executed the same, and had been of the age of twenty-one years at the time. R. S. O. 1877, c. 40, s. 80.

Deeds executed in behalf of infants to be valid.

The Court to direct the application of proceeds.

7. The moneys arising from such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the Court directs. R. S. O. 1877, c. 40, s. 81.

Quality of surplus moneys upon sale of real estate.

8. On any sale or other disposition so made, the money raised, or the surplus thereof, shall be of the same nature and character as the estate sold or disposed of; and the heirs next of kin, or other representatives of the infant, shall have the like interest in any surplus which may remain of the money at the decease of the infant, as they would have had in the estate sold or disposed of, if no sale or other disposition had been made thereof. R. S. O. 1877, c. 40, s. 82.

In cases of dower a composition may be made.

9. If any real estate of an infant is subject to dower, and the person entitled to dower consents in writing to accept in lieu of dower any gross sum which the Court thinks reasonable, or the permanent investment of a reasonable sum in such manner that the interest thereof be made payable to the person entitled to dower during her life, the Court or Judge may direct the payment of such sum in gross, out of the purchase money to the person entitled to dower, as may be deemed upon the principles applicable to life annuities a reasonable satisfaction for such estate; or may direct the payment to the person entitled to dower of an annual sum, or of the income or interest to be derived from the purchase money, or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money, or any part thereof, as may be necessary. R. S. O. 1877, c. 40, s. 83; 42 V. c. 22, s. 5 (3).

APPOINTMENT OF GUARDIANS.

To what Court the right of appointing guardians shall belong.

10. The Surrogate Court for the county within which an infant resides may appoint the father of the infant to be guardian; or may with the consent of the father appoint some other suitable person or persons; but if the infant is of the age of fourteen years or over, neither of such appointments shall be made without the consent of the infant; or, if the infant have no father living or any legal guardian authorized by law to take the care of his person and the charge of his estate, the said Court may appoint a guardian or guardians of the infant; and letters of guardianship granted by a Surrogate Court shall have force and effect in all parts of Ontario; and an official certificate of the grant may be obtained as in the case of letters of administration; and a return of every appointment and removal of a guardian shall be made by registrars respectively to the Surrogate Clerk in like manner as is required by *The Surrogate Courts Act* in the case of grants of probate or administration; but this section shall not be construed as depriving the High Court of jurisdiction in such matters. R. S. O. 1877, c. 132, s. 1; 44 V. c. 10, ss. 10, 12.

11. Upon the written application of the infant, or the friend or friends of the infant residing within the jurisdiction of the Surrogate Court to which application is made, and after proof of twenty days' public notice of the application, the Judge of the Court may appoint some suitable and discreet person or persons to be guardian or guardians of the infant. When Judges of Surrogate Courts may appoint guardians.
 R. S. O. 1877, c. 132, s. 2.

12. The Judge shall take from every guardian appointed under sections 10 and 11, a bond in the name of the infant, in such penal sum and with such securities as the Judge directs and approves, having regard to the circumstances of the case, and such bond shall be conditioned that the said guardian will faithfully perform the said trust, and that he, or his executors or administrators, will, when the said ward becomes of the full age of twenty-one years, or whenever the said guardianship is determined, or sooner if thereto required by the said Surrogate Court, render to his ward, or to his executors or administrators, a true and just account of all goods, moneys, interest, rents, profits or other estate of the ward, which shall have come into the hands of the guardian, and will thereupon without delay deliver and pay over to the said ward, or to his executors or administrators, the estate or the sum or balance of money which may be in the hands of the said guardian belonging to the ward, deducting therefrom and retaining a reasonable sum for the expenses and charges of the guardian, and the bond shall be recorded by the registrar of the Court in the books of his office. Such guardians to give security by bond. Condition of bond. Bond to be recorded.
 R. S. O. 1877, c. 132, s. 3; 44 V. c. 16, s. 11.

13.—(1) On the death of the father of an infant, the mother, if surviving, shall be the guardian of the infant, either alone, when no guardian has been appointed by the father, or jointly with any guardian appointed by the father. On death of father, mother to be guardian, alone, or jointly with others.

(2) Where no guardian has been appointed by the father, or if the guardian or guardians appointed by the father is or are dead, or refuses or refuse to act, the High Court or Surrogate Court, or any Judge of either Court, may from time to time appoint a guardian or guardians to act jointly with the mother, as such Court or Judge shall see fit. 50 V. c. 21, s. 2.

14.—(1) The mother of an infant may, by deed or will, appoint any person or persons to be guardian or guardians of the infant after the death of herself and the father of the infant (if the infant be then unmarried), and where guardians are appointed by both parents they shall act jointly. Mother may appoint guardian, in certain cases.

(2) The mother of an infant may, by deed or will, provisionally nominate some fit person or persons to act as guardian or guardians of the infant after her death jointly with the

father of the infant, and the Court or a Judge after her death, if it be shewn to the satisfaction of the Court or a Judge that the father is for any reason unfitted to be the sole guardian of his children, may confirm the appointment of such guardian or guardians, who shall thereupon be empowered to act as aforesaid, or make such other order in respect of the guardianship as the Court or Judge shall think right. 50 V. c. 21, s. 3.

Direction by Court on matters affecting infant.

15. In the event of guardians being unable to agree among themselves or with the father upon a question affecting the welfare of an infant, any of them or the father may apply to the Court for its direction, and the Court, or Judge, may make such orders regarding the matter in difference as to the Court or Judge seems proper. 50 V. c. 21 s. 4.

Removal of guardians.

16. Testamentary guardians and trustees, and guardians appointed or constituted by virtue of this Act shall be removable by the Court or Judge, for the same causes as other guardians and trustees. 50 V. c. 21, s. 6.

Surrogate Court or Judge, meaning of.

17. The Surrogate Court or Judge referred to in sections 1, 13, 14, 15 and 16, is the Surrogate Court or Judge of the county where the infant or respondents, or any of them, reside. 50 V. c. 21, s. 7.

Authority of Guardians.

Guardians' authority.

18. The guardian of any infant appointed or constituted under or by virtue of this Act during the continuance of his guardianship, (unless where the authority of a guardian appointed or constituted under sections 13 or 14 is otherwise limited)

To act for ward.

1. Shall have authority to act for and on behalf of the said ward;

To appear in actions.

2. May appear in any Court and prosecute or defend any action in his or her name;

To manage real and personal estate, etc.

3. Shall have the charge and management of his or her estate, real and personal, and the care of his or her person and education;

Bind ward an apprentice.

4. And in case the infant is under the age of fourteen years, may, with the approbation of two of Her Majesty's Justices of the Peace and the consent of the ward (or in case the infant is not under the age of fourteen years, then with the consent of the ward only), place and bind him or her an apprentice to any lawful trade, profession or employment; the apprenticeship, in case of males, not extending beyond the age of twenty-one years, and in case of females, not beyond the age of eighteen years, or the marriage of the ward within that age. R. S. O. 1877, c. 132, s. 4; 44 V. c. 16, s. 2; 50 V. c. 21, s. 5.

Limitation of apprenticeship.

POWERS AND PRACTICE OF SURROGATE COURTS.

19. In all matters and applications touching or relating to the appointment, control or removal of guardians, and the security to be given, the custody, control of or right of access to an infant, and otherwise, the several Surrogate Courts shall have the like powers, jurisdiction and authority for the examination of witnesses, the production of deeds and writings, and generally for the enforcing of all orders, and judgments made or given as are given to them by *The Surrogate Courts' Act* in matters testamentary; and all orders and judgments may be appealed from to the Court of Appeal or a Judge thereof in the manner provided in said Act for appeals in matters testamentary. R. S. O. c. 132, s. 6; 50 V. c. 21, s. 3.

In matters of guardianship, control or removal of guardians, and the security to be given, the custody, control of or right of access to an infant, and otherwise, the several Surrogate Courts shall have the like powers, jurisdiction and authority for the examination of witnesses, the production of deeds and writings, and generally for the enforcing of all orders, and judgments made or given as are given to them by *The Surrogate Courts' Act* in matters testamentary; and all orders and judgments may be appealed from to the Court of Appeal or a Judge thereof in the manner provided in said Act for appeals in matters testamentary.

Rev. Stat. c. 50.

20. The practice and procedure shall, except where otherwise provided for by Rules or Orders under *The Surrogate Courts' Act*, conform, as nearly as the circumstances of the case will admit, to the practice and procedure prescribed by the said Act, and all the powers given by the several sections of that Act, to the Judges appointed or to be appointed as contained in sections 76 and 78 of said Act, may from time to time be exercised by them, for the purpose of simplifying and expediting the proceedings, and for fixing and regulating the fees to be taken by officers and by solicitors and counsel respectively for business and proceedings done and taken under this Act in the several Surrogate Courts. R. S. O. 1877, c. 132, s. 7.

Procedure under this Act.

Rev. Stat. c. 50.

21. The attendance of any person to testify on oath respecting any matter in any proceeding under this Act may be enforced by order made for that purpose, and on the service of a copy thereof and the payment of expenses as a witness, in the same manner as in an action, or affidavits respecting such matter may be received. R. S. O. 1877, c. 132, s. 11.

Court or Judge may enforce the attendance of witnesses.

22. Nothing herein contained shall be construed to change the law as to the authority of the father in respect of the religious faith in which his child is to be educated. R. S. O. 1877, c. 132, s. 13.

Religious education.

23. Sections 1, 13, 14, 15 and 16 of this Act shall not apply to any children as to whom any application has been made to any Court or Judge with respect to their custody or maintenance, before the 23rd day of April, 1887, and whether or not such application was then pending. 50 V. c. 21, s. 9.

Application not to apply to children as to whom any application has been made to any Court or Judge with respect to their custody or maintenance, before the 23rd day of April, 1887, and whether or not such application was then pending.

ss. 1 and 13-16

CHAPTER 138.

An Act respecting the Support of Illegitimate Children.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

The father of an illegitimate child liable for necessities.

1. Any person who furnishes food, clothing, lodging or other necessities, to any child born not in lawful wedlock, may maintain an action for the value thereof against the father of the child, if the child was a minor at the time the necessities were furnished, and was not then residing with his or her reputed father and maintained by him as a member of his family. R. S. O. 1877, c. 131, s. 1.

When other testimony than that of the mother requisite.

2. Where the person suing for the value of the necessities is the mother of the child, or a person to whom the mother has become accountable for the necessities, the fact of the defendant being the father shall be proved by other testimony than that of the mother. R. S. O. 1877, c. 131, s. 2.

No action maintainable unless the mother makes affidavit before the birth of the child or within six months after.

3. No action shall be sustained under the last two sections, unless it is shewn upon the trial thereof, that while the mother of the child was pregnant, or within six months after the birth of her child, she did voluntarily make an affidavit in writing, before some one of Her Majesty's Justices of the Peace for the county or city in which she resides, declaring that the person afterwards charged in the action is really the father of the child, nor unless she deposited the affidavit, within the time aforesaid, in the office of the clerk of the peace of the county, or the clerk of the council of the city, as the case may be. R. S. O. 1877, c. 131, s. 3.

Such affidavit not to be evidence.

4. The affidavit shall not be evidence of the fact of the defendant being the father of the child. R. S. O. 1877, c. 131, s. 4.

Other remedies not to be affected.

5. This Act shall not take away or abridge any right of action or remedy which, without this Act, might have been maintained against the father of an illegitimate child. R. S. O. 1877, c. 131, s. 5.

3. MASTER AND SERVANT.

CHAP. 139.—MASTER AND SERVANT, p. 1283.

“ 140.—MASTERS AND WORKMEN, SETTLEMENT OF DISPUTES BETWEEN, p. 1288.

“ 141.—COMPENSATION FOR INJURIES TO WORKMEN, p. 1294.

“ 142.—APPRENTICES AND MINORS, p. 1304.

CHAPTER 139.

An Act respecting Master and Servant.

SLAVERY PROHIBITED, s. 1.

LIMITATION OF VOLUNTARY CONTRACTS OF SERVICE, s. 2.

PARTICIPATION OF WORKMEN IN PROFITS OF BUSINESS, ss. 3, 4.

WRITTEN OR VERBAL AGREEMENTS AS TO SERVICE TO BE BINDING, s. 5.

OFFENCES AND PENALTIES :—

Detention in pledge of servants' wearing apparel, s. 6.

ADJUSTMENTS OF DISPUTES, s. 7.

AGREEMENTS MADE WITH RESIDENTS OUT OF CANADA FOR SERVICE IN ONTARIO, s. 8.

SUMMARY PROCEEDINGS BEFORE JUSTICES OF THE PEACE, ss. 9-11.

NON-PAYMENT OF WAGES OF SERVANTS, s. 12.

LIMITATION OF TIME, s. 13.

APPEALS, ss. 14-17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

SLAVERY PROHIBITED.

1. The Lieutenant-Governor shall not grant a license for the importation of any negro or other person to be subjected to the condition of a slave, or to a bounden involuntary service for life, into any part of the Province of Ontario; nor shall any negro, or other person, who comes or is brought into this Province, be subject to the condition of a slave, or to such service as aforesaid within the same. R. S. O. 1877, c. 133, s. 1.

Slavery prohibited.

MASTER AND SERVANT.

2. No voluntary contract of service or indentures entered into by any parties shall be binding on them, or either of them, for a longer time than a term of nine years from the day of the date of such contract. R. S. O. 1877, c. 133, s. 2.

No voluntary contract of service or indentures to be binding longer than nine years.

Agreements by which workmen, etc., may share in the profits of the business.

3. It shall be lawful in any trade, calling, business, or employment, for an agreement to be entered into between the workman, servant, or other person employed, and the master or employer, by which agreement a defined share in the annual or other net profits or proceeds of the trade or business carried on by such master or employer, may be allotted and paid to such workman, servant or person employed, in lieu of or in addition to his salary, wages, or other remuneration; and such agreement shall not create any relation in the nature of partnership, or any rights or liabilities of co-partners, any rule of law to the contrary notwithstanding: and any person in whose favour such agreement is made, shall have no right to examine into the accounts, or interfere in any way in the management or concerns of the trade, calling, or business in which he is employed under the said agreement or otherwise; and any periodical or other statement or return by the employer, of the net profits or proceeds of the said trade, calling, business, or employment, on which he declares and appropriates the share of profits payable under the said agreement, shall be final and conclusive between the parties thereto and all persons claiming under them respectively, and shall not be impeachable upon any ground whatever. R. S. O. 1877, c. 133, s. 3.

Certain agreements within this Act.

4. Every agreement of the nature mentioned in the last preceding section shall be deemed to be within the provisions of this Act, unless it purports to be excepted therefrom, or this may otherwise be inferred. R. S. O. 1877, c. 133, s. 4.

Verbal as well as written agreements between master and servant to be binding.

5. All agreements or bargains, verbal or written, between masters and journeymen, or skilled labourers, in any trade, calling or craft, or between masters and servants or labourers, for the performance of any duties or service of whatsoever nature, shall, whether the performance has been entered upon or not, be binding on each party for the due fulfilment thereof; but a verbal agreement shall not exceed the term of one year. R. S. O. 1877, c. 133, s. 5.

Tavern keepers, etc., not to keep wearing apparel of servant in pledge for any amount above \$5.

6. No tavern keeper or boarding-house keeper shall keep the wearing apparel of any servant or labourer in pledge for any expenses incurred to a greater amount than \$6, and on payment or tender of such sum, or of any less sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such servant or labourer; but this is not to apply to other property of the servant or labourer. R. S. O. 1877, c. 133, s. 6.

How certain differences between master and servant are to be decided.

7. If after the termination of an engagement between master and servant, any dispute arises between them in respect of the term of such engagement or of any matter appertaining to it, the Justice or Justices of the Peace who receive the complaint shall be bound to decide the matter, in accordance with the provisions of this Act, and as though the engagement be-

tween the parties still subsisted : but proceedings must be taken ^{Proviso.} within one month after the engagement has ceased. R. S. O. 1877, c. 133, s. 7.

8.—(1) Any agreement or bargain, verbal or written, express ^{Agreements made with} or implied, which may hereafter be made between any person and any other person not a resident of Canada, for the performance of labour or service, or having reference to the performance of labour or service by such other person in the Province of Ontario, and made as aforesaid, previous to the migration or coming into Canada, of such other person whose labour or service is contracted for, shall be void and of no effect, as against the person only so migrating or coming.

(2) Nothing in this section shall be so construed as to prevent any person from engaging under ^{Exception.} contract or agreement skilled workmen, not resident in Canada, to perform labour in Ontario in or upon any new industry not at present established in Ontario, or any industry at present established if skilled labour for the purpose of the industry cannot be otherwise obtained; nor shall the provisions of this section apply to teachers, professional actors, artists, lecturers, or singers. 49 V. c. 27, ss. 1, 2.

SUMMARY PROCEEDINGS BEFORE JUSTICES.

9. Any one or more of Her Majesty's Justices of the Peace may receive the complaints upon oath of parties complaining of any contravention of the preceding provisions of this Act, and may cause all parties concerned to appear before him or them, and shall hear and determine the complaint in a summary and expeditious manner. R. S. O. 1877, c. 133, s. 9.

10. Where the Justice takes the evidence of the complainant in support of his or her claim, the said Justice shall ^{What evidence may be taken} be bound to take the evidence of the defendant also, if tendered. R. S. O. 1877, c. 133, s. 10.

11. Complaints against any person under this Act may be prosecuted and determined in any county in which the person complained against is found. ^{Complaints may be in any county.} R. S. O. 1877, c. 133, s. 11.

12. Any one or more of the Justices, upon oath of such servant or labourer against his master or employer concerning any non-payment of wages, may summon the master or employer to appear before him or them at a reasonable time to be stated in the summons, and he or they or some other Justice or Justices shall, upon proof on oath of the personal service of the summons, examine into the matter of the complaint, whether the master or employer appears or not, and upon due proof of the cause of complaint, the Justice or Justices may discharge the servant or labourer from the service or employ- ^{Complaints by servants for non-payment of wages.}

ment of the master, and may direct the payment to him of any wages found to be due, not exceeding the sum of \$40, and the Justice or Justices shall make such order for payment of the said wages as to him or them seems just and reasonable, with costs, and in case of the non-payment of the same together with the costs for the space of twenty-one days after such order has been made, the Justice or Justices shall issue his or their warrant of distress for the levying of the wages, together with the costs of conviction and of the distress, R. S. O., 1877, c. 133, s. 12.

Time within which proceedings may be taken.

Work done in Ontario under agreement made out of Ontario.

13. Proceedings may be taken under this Act within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever shall last happen; and proceedings under section 12 may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal agreement or bargain made out of Ontario. 47 V. c. 21, s. 1.

APPEALS.

Mode of appeal.

14. All appeals from or against any conviction or order for the payment of wages, or any order of dismissal from service or employment or against any decision of any Justice or Justices under this Act shall, be made to the Division Court, holden in the division in which the cause of action arose, or in which the party complained against, or one of them, resided at the time of the making of the complaint; and in case of dismissal of the appeal or affirmance of the conviction, order or decision, the Court appealed to shall order and adjudge the offender to be punished according to the conviction, or shall enforce the order for payment of wages or of dismissal, as the case may be, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect. R. S. O. 1877, c. 133, s. 13; 43 V. c. 8, s. 50.

Notice of appeal.

15. The person proposing to appeal shall give to the opposite party a notice in writing of his appeal, and of the cause or matter thereof, within four days after such conviction, order, decision or judgment, and eight days, at least, before the holding of the Court at which the appeal is to be heard, and shall also, within the four days, enter into a bond to the opposite party with two sufficient sureties—to be approved of by the clerk of the Court—in the penal sum of \$100, conditioned personally to appear at the said Court and try the appeal and to abide the judgment of the Court thereon, and to pay such costs as shall be by the Court awarded, and upon the notice being served and bond executed and filed with the clerk,

all proceedings on the order, conviction or decision appealed against shall be stayed until the determination of the appeal.
43 V. c. 8, s. 51.

16. The clerk shall, on the bond and notice of appeal with an affidavit of service thereof being filed in his office, enter the cause in his procedure book, and the appeal may be tried with a jury if the appellant file with the clerk at the time of filing the bond a notice requiring a jury, or if the respondent, within four days after the service of the notice of appeal upon him, file a notice with the clerk, requiring a jury, and if the proper fees are, in either case, deposited with the clerk; otherwise the Judge may try the appeal without a jury or may summon a jury from the body of the Court as to him seems meet.
43 V. c. 8, s. 52.

17. In case of the dismissal of the appeal or affirmance of the conviction, order or decision, the Judge may order and adjudge the offender to be punished according to the conviction or order, or he may direct the enforcement of the order for payment of wages or of dismissal, as the case may be, with the payment of the costs awarded, and any order or orders made by him in the premises shall be enforced and carried into execution by the officers of the Court. The Judge may direct execution to issue for the levying of any moneys or costs awarded or ordered to be paid, and in the event of any such moneys or costs being payable by the appellant, which have not been levied under execution against the goods of the appellant, the Judge may order the bond to be delivered up to the respondent, who shall be entitled to recover the amount due him with costs in any Division Court having jurisdiction.
43 V. c. 8, s. 53.

Case to be entered by clerk.

Proceedings in case of appeal dismissed or affirmed.

CHAPTER 140.

An Act to facilitate the adjustment of disputes between Masters and Workmen.

SHORT TITLE, s. 1.	Chairman, s. 16.
BOARD OF ARBITRATION, ss. 2-26.	Employment of counsel, s. 17.
Agreement to form, ss. 2, 3.	Duration of—filling of vacancies in, s. 18.
Registration of memorandum of agreement, ss. 4, 5.	Voters—Qualification, s. 20.
Formal defects, s. 6.	Registration, ss. 21, 22.
Composition and appointment, ss. 7, 8, 19.	Returning officers, s. 23.
Powers, ss. 9, 10.	Elections, ss. 24-26.
Award, s. 11.	FEES, BY-LAWS, OFFICERS, ETC., s. 27.
Enforcement of, s. 12.	FUTURE RATE OF WAGES NOT TO BE FIXED, s. 28.
Evidence of, s. 13.	DOMESTIC AND FARM SERVANTS NOT AFFECTED, s. 29.
Quorum, s. 14.	
Committee of Reconciliation, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The Trades Arbitration Act.*"
R. S. O. 1877, c. 134, s. 1.

Board of Arbitration. **2.** Any number of masters and workmen resident and actually engaged at the time of filing the memorandum hereinafter mentioned in carrying on or working at any particular trade, occupation, or employment, in any city, town, township or village in this Province, may at a meeting specially convened for that purpose, agree to form a Board under this Act for the friendly settlement of differences between masters and workmen. R. S. O. 1877, c. 134, s. 2.

Memorandum to be signed. **3.—(1)** The masters and workmen shall jointly sign a memorandum, whereby it is mutually agreed to establish such Board.

(2) The memorandum shall set forth the number of the members of the Board, and also the names, occupation and residence of the signers of the memorandum, and shall be in the form of the Schedule to this Act, or to a similar effect. R. S. O. 1877, c. 134, s. 3.

4. Upon the filing of the memorandum, with affidavits verifying the signatures thereto, in the registry office of the registry division within which the masters and workmen reside, the Board shall be deemed to be lawfully established. R. S. O. 1877, c. 134, s. 4. Registration of memorandum.

5. The registrar shall retain the memorandum and enter a copy of the same in a book to be kept for that purpose; for which and the filing of the memorandum he shall be entitled to receive the sum of \$2 and no more. R. S. O. 1877, c. 134, s. 5. Fee.

6. No defect in the form of the memorandum, or in the filing and registration thereof shall invalidate the efficiency of any of the proceedings to be taken thereunder under the provisions of this Act. R. S. O. 1877, c. 134, s. 6. Defects of form in registration.

7. The Board shall consist of not less than two masters and two workmen, nor more than ten masters and ten workmen and a chairman, and the number to constitute the Board other than the chairman shall be inserted in the memorandum; but no member of the Board shall adjudicate in any case in which he or any relation of his is one of the parties. R. S. O. 1877, c. 134, s. 7. Board, how composed.

8. The persons who have signed the memorandum are hereby authorized to proceed to the appointment of the Board within sixty days after the registry of the memorandum, the masters appointing their portion of the Board from among themselves, and the workmen their portion from among themselves; and the Board shall remain in office until the appointment of a new Board in its stead. R. S. O. 1877, c. 134, s. 8. Appointment of Board.

9. The Board shall have power to appoint their own chairman and two clerks, one for the masters and the other for the workmen's portion thereof; and shall have power to hear and determine all questions of dispute and differences between the masters and workmen, being signers of the memorandum, or who may at any time become parties thereto, by a written notice to the chairman or clerks of the Board, which disputes and differences may be submitted to them by both parties in difference. R. S. O. 1877, c. 134, s. 9. Powers of Board.

10. The Board shall also have and exercise all the powers conferred upon arbitrators by *The Act respecting arbitrations and References.* R. S. O. 1877, c. 134, s. 10. Board to have powers given by Rev. Stat. c. 53.

11. Any award the Board may make in any case of disputes or differences so submitted to them shall be final and

conclusive between the parties thereto, without being subject to review or challenge by any Court or authority whatsoever, R. S. O. 1877, c. 134, s. 11.

Enforcing
award.

12. The award may be enforced upon summary application to the Judge of the County Court of the county in which the Board is formed; and the Judge is hereby authorized to enforce the award by the order of the Court and process of execution to be issued thereupon. R. S. O. 1877, c. 134, s. 12.

Evidence of
award.

13. Any award, in writing, under the hand of the chairman of the Board, shall be deemed sufficient evidence of the validity of the award to authorize such proceedings of said Judge. R. S. O. 1877, c. 134, s. 13.

Quorum.

14. A quorum of not less than three (one being a master and another a workman, and the third the chairman), may constitute a Board for the hearing and adjudication of cases of dispute, and may accordingly make their award. R. S. O. 1877, c. 134, s. 14.

Committee
of reconcilia-
tion.

15. A committee of the Board, to be denominated the Committee of Reconciliation, shall be appointed by the Board, consisting of one master and one workman, who shall sit at such times as shall be appointed, and be renewed from time to time as occasion may require; and all cases or questions of dispute which are submitted to the Board by both parties thereto, shall in the first instance be referred to the committee, who shall endeavour to reconcile the parties in difference; when such reconciliation is not effected, the matter in dispute shall be remitted to the Board to be disposed of as a contested matter. R. S. O. 1877, c. 134, s. 15.

Chairman.

16. The chairman of the Board shall be some person unconnected with trade, and shall preside at the meetings of the Board, and shall be appointed at the first meeting; and when the votes of the Board are equal, the chairman for the time being shall have the casting vote. R. S. O. 1877, c. 134, s. 16.

When parties
may employ
counsel.

17. No counsel or solicitor, shall be allowed to attend on any hearing before the Board or the Committee of Reconciliation, unless consented to by both parties. R. S. O. 1877, c. 134, s. 17.

Duration of
Board.

18. On the first Monday in November, in the year after the appointment of the first Board, and on the first Monday in November in each succeeding year, a Board and chairman shall be appointed, who shall remain in office until the appointment of a new Board; and in case of vacancies arising between the fixed days of election in each year, caused by the death or

removal of any member of the Board, or of the chairman, an election shall take place within fourteen days, and another member shall be elected to fill up the said vacancy from the class to which the member who has died or removed belonged, or a chairman shall be appointed, as the case may be, and the member or chairman so elected shall serve for the remainder of the year. R. S. O. 1877, c. 134, s. 18. Vacancies.

19. The masters shall appoint their portion of the Board, and the workmen their portion of the Board. R. S. O. 1877, c. 134, s. 19. Composition of Board.

20. For the purposes of this Act, the following persons being twenty-one years of age, and belonging to the particular trade to which the registered memorandum applies, shall be entitled to be registered as voters for the election of the Board, and shall be qualified to be elected members of the Board : Qualification of Voters.

1. Every master who has been engaged in carrying on the said trade within the limits of the city, town, township, or village wherein the Board is formed, for three months previous to the first day of November in any one year.

2. Every workman who has served the regular term of apprenticeship required in such trade or calling, and has been working at his said trade for a like period within the same limits, and has signed the memorandum, or has given notice to the chairman or clerks of his assent thereto. R. S. O. 1877, c. 134, s. 20.

21. (1) The clerk of each division of the Board shall respectively keep a register of every person claiming to have his name inscribed on the register as a voter for the Board, as master or workman respectively and distinct from each other. Registration of Voters.

(2) The register shall contain the name and abode of each person engaged in the particular trade or occupation set forth in the registered memorandum.

(3) The clerk shall, upon payment of a fee of ten cents made to him register the same immediately, or be liable to be fined for neglect.

(4) The Board is hereby empowered to fix and determine the amount of such fine, but not to exceed the sum of \$5. and such fines shall be applied to the funds of the said Board. R. S. O. 1877, c. 134, s. 21.

22. In case it appears to the masters' or workmen's division of the Board respectively that any person ought not to be so registered as master or workman respectively, such division shall order the name of such person to be struck off such register. R. S. O. 1877, c. 134, s. 22. Removal of name from register.

Returning
Officers.

23. The clerk of each division of the Board shall be the returning officer, and for the election of the masters' and workmen's portion thereof respectively, he shall convene meetings of masters and meetings of workmen respectively by advertisement or circular notice fourteen clear days previous to the first day of November. R. S. O. 1877, c. 134, s. 23.

Elections.

24. Each class shall at such meetings proceed to nominate and elect members to the Board for the year next ensuing. R. S. O. 1877, c. 134, s. 24.

Mode of
election.

25. The votes shall be taken by show of hands or division of members, and in such place as each division of the Board may respectively authorize, and the clerk shall declare to the meeting the names of the candidates who are elected, and the same shall be final and conclusive. R. S. O. 1877, c. 134, s. 25.

Declaration of
elections.

26. The clerk shall, within seven days after the day of nomination, declare the number of votes given to each candidate, and those having received the largest number of votes shall be declared duly elected. R. S. O. 1877, c. 134, s. 26.

Fees, by-laws"
officers, etc.

27. Every Board constituted under this Act shall from time to time make out a list of fees which shall be charged for any proceeding and other expenses under this Act; and shall appoint such officers as may be necessary, and make such by-laws, rules and regulations for their guidance, and for the taking and scrutiny of the votes given for the election of members of the Board; and also for the despatch of business, as they may deem necessary; such by-laws, rules, regulations and fees not being contrary to law. R. S. O. 1877, c. 134, s. 27.

Board not to
have power to
establish rate
of wages.

28. Nothing in this Act contained shall authorize the said Board to establish a rate of wages or price of labour or workmanship, at which the workmen shall in future be paid. R. S. O. 1877, c. 134, s. 28.

Persons not
affected by
this Act.

29. This Act shall not be construed to extend to domestic servants, or servants in husbandry. R. S. O. 1877, c. 134, s. 29.

SCHEDULE.

(Section 3.)

FORM OF MEMORANDUM.

Memorandum of agreement between us, the undersigned masters and workmen engaged in the trade, employment or occupation of at the of in the County of under *The Trades Arbitration Act*, whereby we, the undersigned, mutually agree to establish a Board for the settlement of differences between us, under the said Act.

Such Board shall (besides the Chairman) consist of
masters and the like number of workmen.

The names, occupation and residence of the undersigned masters are as follows :

NAMES.	OCCUPATION.	RESIDENCE.

The names, occupation and residence of the undersigned workmen, are as follows :—

NAMES.	OCCUPATION.	RESIDENCE.

Dated the
Witness.

day of

, A. D. 18 .

Signatures.

R. S. O. 1877, c. 134, Sched.

CHAPTER 141.

An Act to secure Compensation to Workmen in certain cases.

SHORT TITLE, s. 1.	DEDUCTION OF PENALTIES FROM COM-
INTERPRETATION, s. 2.	PENSATION, s. 9.
CLAIMS AGAINST EMPLOYERS, ss. 3, 4.	NOTICE OF INJURY, s. 10.
INJURY BY RAILWAYS, ss. 4, 5.	PARTICULARS OF DEMAND, s. 11.
COMPENSATION :	APPOINTMENT OF ASSESSORS, s. 12.
Limit of amount, s. 6.	CONSOLIDATION OF ACTIONS, s. 13.
Limit as to time for recovery,	COMPUTATION OF TIME, s. 14.
s. 7.	FORMS AND RULES, s. 15.
DEFENCES IN ACTIONS FOR COMPEN-	APPLICATION LIMITED AS TO RAILWAY
SATION, s. 8.	COMPANIES, s. 16.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be known and cited as "*The Workmen's Compensation for Injuries Act.*" 49 V. c. 28, s. 1.

Interpreta-
tion.

2. Where the following words occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :—

"Person who
has superin-
tendence en-
trusted to
him."

1. "Person who has superintendence entrusted to him" means a person whose sole or principal duty is that of superintendence, and who is not ordinarily engaged in manual labour.

"Employer."

2. "Employer" includes a body of persons corporate or unincorporate.

"Workman."

3. "Workman" does not include a domestic or menial servant, but, save as aforesaid, means any railway servant, and any person who being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years, or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour.

"Packing."

4. "Packing" shall mean a packing of wood or metal, or some other equally substantial and solid material, of

not less than two inches in thickness, and which, where filled in, shall extend to within one and a-half inches of the crown of the rails in use on any railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid. 49 V. c. 28, s. 2.

3. Where personal injury is caused to a workman—

When workman to have claim against employer.

1. By reason of any defect in the condition of the ways, works, machinery or plant connected with or used in the business of the employer; or

2. By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence; or

3. By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where such injury resulted from his having so conformed; or

4. By reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or by-laws of the employer, or in obedience to particular instructions given by any person delegated with the authority of the employer in that behalf; or

5. By reason of the negligence of any person in the service of the employer who has the charge or control of any signal-points, locomotive, engine, or train upon a railway;

the workman, or, in case the injury results in death, the legal personal representatives of the workman, and any persons entitled in case of death, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of the employer, nor engaged in his work. 49 V. c. 28, s. 3.

4. Where within this Province personal injury is caused to a workman employed on or about any railway,

Injuries by railways.

1. By reason of the lower beams or members of the superstructure of any highway, or other overhead bridge, or any other erection or structure over said railway, not being of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then running on such railway, and the bottom of such lower beams or members; or,

2. By reason of the space between the rails in any railway frog, extending from the point of such frog backward to where the heads of such rails are not less than five inches apart, not being filled in with packing; or,
3. By reason of the space between any wing-rail and any railway frog, and between any guard-rail and any other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes, (save only where the space between the heads of any such wing-rail and railway frog as aforesaid, or between the heads of any such guard-rail and any other rail fixed and used alongside thereof as aforesaid, or between the heads of any such wing-rails where no other rail intervenes as aforesaid, is either less than one and three-quarters of an inch or more than five inches in width), not being at all times during every month of April, May, June, July, August, September and October, filled in with packing;

such injury shall be deemed and taken to have been caused by reason of a defect within the meaning of sub-section 1 of section 3 of this Act. But nothing in this section contained shall be taken or construed, as in any respect, or for any purpose restricting the meaning of said sub-section. 49 V. c. 28, s. 4.

Exceptions to
preceding
provisions

5. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases, that is to say:

1. Under sub-section 1 of section 3, unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer, and entrusted by him with the duty of seeing that the ways, works, machinery or plant were in proper condition.

2. Under sub-section 4 of section 3, unless the injury resulted from some impropriety or defect in the rules, by-laws, or instructions therein mentioned; provided, that where a rule or by-law has been approved, or has been accepted as a proper rule or by-law, either by the Lieutenant-Governor in Council, or under and pursuant to any provision in that behalf of any Act of the Legislature of Ontario, or of the Parliament of Canada, it shall not be deemed for the purposes of this Act to be an improper or defective rule or by-law.

3. In any case where the workman knew of the defect or negligence which caused his injury, and failed within a reasonable time to give or cause to be given information thereof to the employer or some person superior to himself in the service

of the employer, unless he was aware that the employer or such superior already knew of the said defect or negligence. 49 V. c. 28, s. 5.

6. The amount of compensation recoverable under this Act shall not exceed such sum as may be found to be equivalent to the estimated earnings, during the three years preceding the injury of a person in the same grade employed during those years in the like employment within this Province; and such compensation shall not be subject to any deduction or abatement, by reason, or on account, or in respect of any matter or thing whatsoever, save such as is specially provided for in section 9 of this Act. 49 V. c. 28, s. 6.

Limit of amount of compensation.

7. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice that injury has been sustained is given within twelve weeks, and the action is commenced within six months from the occurrence of the accident causing the injury, or in case of death within twelve months from the time of death; provided always that in case of death the want of such notice shall be no bar to the maintenance of such action, if the Judge shall be of opinion that there was reasonable excuse for such want of notice. 49 V. c. 28, s. 7.

Limit of time for recovery of compensation.

8. No contract or agreement made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Act of compensation for any injury, Contract by workman when to constitute a defence to action for compensation.

1. Unless for such workman entering into or making such contract or agreement there was other consideration than that of his being taken into or continued in the employment of the defendant; nor

2. Unless such other consideration was in the opinion of the Court or Judge before whom such action is tried, ample and adequate; nor

3. Unless, in the opinion of the Court or Judge, such contract or agreement, in view of such other consideration was not on the part of the workman, improvident, but was just and reasonable;

and the burthen of proof in respect of such other consideration, and of the same being ample and adequate, as aforesaid, and that the contract was just and reasonable and was not improvident as aforesaid, shall, in all cases, rest upon the defendant; provided always that notwithstanding anything in this section contained, no contract or agreement whatsoever made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Act of compensation for any injury happening or caused by reason of any of the matters mentioned in section 4 of this Act. 49 V. c. 28, s. 8.

Money payable under penalty to be deducted from compensation.

9. There shall be deducted from any compensation awarded to any workman or representatives of a workman, or persons claiming by, under, or through a workman in respect of any cause of action arising under this Act, any penalty or damages, or part of a penalty or damages which may in pursuance of any other Act, either of the Parliament of Canada, or of the Legislature of Ontario, have been paid to such workman, representatives or persons in respect of the same cause of action; and where an action has been brought under this Act by any workman, or the representatives of any workman, or any persons claiming by, under, or through such workman, for compensation in respect of any cause of action arising under this Act, and payment has not previously been made of any penalty or damages, or part of a penalty or damages under any such Act, either of the said Parliament, or of the said Legislature, in respect of the same cause of action, such workman, representatives or persons shall not, so far as the said Legislature has power so to enact, be entitled thereafter to receive in respect of the same cause of action, any such penalty or damages, or part of a penalty or damages, under any such last-mentioned Act. 49 V. c. 28, s. 9.

Form and service of notice of injury.

10.—(1) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or if there is more than one employer, upon one of such employers.

(2) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

(3) The notice may also be served by post, by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post, and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered.

(4) Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or if there be more than one office, any one of the offices of such body.

(5) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy, and that the defect or inaccuracy was for the purpose of misleading.

(6) A notice under this section shall be deemed sufficient if in the form or to the effect following:—

To A. B., of *(here insert employer's address)*
or To the Company, *(or as the case may be.)*

Take notice, that on the day of 188 C. D., of *(insert address of injured person)* a workman in your employment sustained personal injury, *(add, of which he died, if such be the case,)* and that such injury was caused by *(state shortly the cause of injury, e.g., the fall of a beam.)*

(Date.)

Yours, etc.,

X. Y.

49 V. c. 28, s. 10.

11. In an action brought under this Act the particulars of demand or statement of claim shall state in ordinary language the cause of the injury, and the date at which it was sustained, and the amount of compensation claimed; and where the action is brought by more than one plaintiff, the amount of compensation claimed by each plaintiff, and where the injury of which the plaintiff complains shall have arisen by reason of the negligence, act, or omission of any person in the service of the defendant, the particulars shall give the name and description of such person. 49 V. c. 28, s. 11. Particulars of demand.

12.—(1) Upon the trial of an action for recovery of compensation under this Act before a Judge without a jury, one or more assessors may be appointed by the Court or Judge for the purpose of ascertaining the amount of compensation, and the remuneration (if any) to be paid to such assessors shall be fixed and determined by the Judge at the trial. Appointment of assessors.

(2) Any person who shall, as hereinafter provided, be appointed to act as an assessor in such action, shall be qualified so to act.

(3) In such action, a party who desires assessors to be appointed shall, ten clear days at least before the day for holding the Court at which the action is to be tried, file an application stating the number of assessors he proposes to be appointed, and the names, addresses and occupations of the persons who may have expressed their willingness in writing to act as assessors. If the applicant has obtained the consent of the other party to the persons named being appointed, he shall file such consent with his application.

(4) Where the application for the appointment of assessors has been made by one party to an action only, he shall, eight clear days at least before the day for holding the Court at which the action is to be tried, serve a copy of the application, so filed, upon the other party, who may then either file an application for assessors, or file objections to one or more of the persons proposed.

(5) An application for the appointment of assessors may be in the form following, or to the like effect, namely :—

In the (*describing the Court*)

“ The Workmen’s Compensation for Injuries Act.”

BETWEEN,

Plaintiff,
Defendant.

The plaintiff (*or defendant*) applies to have an assessor (*or assessors*) appointed to assist the Court in ascertaining the amount of compensation to be awarded to the plaintiff, should the judgment be in his favour, and he submits the names of the following persons, who have expressed their willingness in writing to act as assessors should they be appointed.

(*Here set out the names, addresses and occupations of the persons above referred to.*)

(*If the other party consents to the appointment add the following*):—

The defendant (*or plaintiff*) consents to the appointment of any of the persons above named to act as assessors in this action, as appears by his consent thereto filed herewith.

Dated this day of

A. B.

The above named plaintiff, (*or as the case may be.*)

(6) Where separate applications are filed by the parties, no objection to the persons proposed shall be made by either party, but the Court or Judge may appoint from the persons named in each application one or more assessor or assessors, provided that the same number of assessors be appointed from the names given in such applications respectively.

(7) In such action brought in a Division Court the applications for the appointment of assessors, together with any objections made to the persons proposed, shall be forwarded by the clerk of the Court to the Judge.

(8) Where application for the appointment of assessors is granted, the Court or Judge shall appoint such of the persons proposed for assessors as by the Court or Judge may be deemed fit, subject to the provisions contained in this Act.

(9) In such action where an application for the appointment of assessors has been filed, the Court or Judge may, at any time prior to the trial thereof, nominate one or more additional persons to act as assessors in the action. Where no application for assessors has been made, the Court or Judge may appoint one or more persons to act as assessor or assessors in the action before or on the trial of the action.

(10) If at the time and place appointed for the trial all or any of the assessors appointed shall not attend, the Court or Judge may either proceed to try the action with the assistance of such of the assessors, if any, as shall attend, or may adjourn the trial generally, or upon any terms which the Court or Judge may think fit, or may appoint any person who may be available and who is willing to act, and who is not objected to, or

who, if objected to is objected to on some insufficient ground, or the Court or Judge may try the action without assessors.

(11) Every person requiring the Court or Judge to be assisted by assessors shall at the time of filing his application deposit therewith the sum of \$4 for every assessor proposed, and such payments shall be considered as costs in the action, unless otherwise ordered by the Court or Judge: Provided, that where a person proposed as an assessor shall have in writing agreed and consented that he will not require his remuneration to be so deposited, no deposit in respect of such person shall be required.

(12) Where an action shall be tried by the Court or Judge with the assistance of assessors in addition to or independently of any assessors proposed by the parties, the remuneration of such assessors shall be borne by the parties, or either of them, as the Judge or Court shall direct.

(13) If after an assessor has been appointed the action shall not be tried, the Court or Judge shall have power to make an allowance to him in respect of any expense or trouble which he may have incurred by reason of his appointment, and direct the payment to be made out of any sum deposited for his remuneration.

(14) The assessors shall sit with and assist the Court or Judge when required with their opinion and special knowledge for the purpose of ascertaining the amount of compensation, if any, which the plaintiff shall be entitled to recover. 49 V. c. 28, s. 12.

13.—(1) Where several actions shall be brought under this Act against a defendant in the same Court in respect of the same negligence, act or omission, the defendant shall be at liberty to apply to the Judge that the said actions shall be consolidated. Consolidation of actions.

(2) Applications for consolidation of actions shall be made upon notice to the plaintiffs affected by such consolidation.

(3) In case several actions shall be brought under this Act against a defendant in the same Court in respect of the same negligence, act or omission, the defendant may, on filing an undertaking to be bound so far as his liability for such negligence, act or omission is concerned by the decision in such one of the said actions as may be selected by the Court or Judge, apply to the Court or Judge for an order to stay the proceedings in the actions other than in the one so selected, until judgment is given in such selected action.

(4) Applications for stay of proceedings shall be made upon notice to the plaintiffs affected by stay of proceedings or *ex parte*.

(5) Upon the hearing of an application for consolidation of actions or for stay of proceedings, the Court or Judge shall

have power to impose such terms and conditions and make such order in the matter as may be just.

(6) If an order shall be made by a Court or Judge upon an *ex parte* application to stay proceedings, it shall be competent to the plaintiffs affected by the order to apply to the Court or Judge (as the case may be) upon notice or *ex parte*, to vary or discharge the order so made, and upon such last mentioned application such order shall be made as the Court or Judge shall think fit, and the Court or Judge shall have power to dispose of the costs occasioned by such order as may be deemed right.

(7) In case a verdict in the selected action shall be given against the defendant, the plaintiffs in the actions stayed shall be at liberty to proceed for the purpose of ascertaining and recovering their damages and costs.

(8) A defendant may by notice to the opposite party to be given or served at least six days before the day appointed for the trial of the action, admit the truth of any statement of his liability for any alleged negligence, act or omission as set forth or contained in the plaintiff's statement or particulars of claim in the action, and after such notice given the plaintiff shall not be allowed any expense thereafter incurred for the purpose of proving the matters so admitted.

(9) Where two or more persons are joined as plaintiffs under sub-section 1 of this section, and the negligence, act or omission which is the cause of action shall be proved, the judgment shall be for all the plaintiffs, but the amount of compensation, if any, that each plaintiff is entitled to shall be separately found and set forth in the judgment, and the amount of costs awarded in the action shall be ordered to be paid to such person, and in such manner as the Court or Judge may think fit; should the defendant fail to pay the several amounts of compensation and the costs awarded in the action, execution may issue as in an ordinary action, and should the proceeds of the execution be insufficient, after deducting all costs, to pay the whole of the amounts awarded, a dividend shall be paid to each plaintiff, calculated upon the proportion of the amount which shall have been awarded to the respective plaintiffs to the total amount realized after the deduction of all the costs of the action as aforesaid. 49 V. c. 28, s. 13.

Computation
of time.

14. Where the time for doing any act, taking any proceeding, or giving any notice under or required by this Act expires on a Sunday such act, or proceeding, or notice shall, so far as regards the time of doing, taking or giving the same, be held to be duly and sufficiently done, taken or given, if done, taken or given, on the day next following such Sunday.

Forms and
costs.

15. In an action brought in any Court to recover compensation under this Act, the forms and methods, and the rules and orders in force in Court shall, subject to and save as otherwise

provided by the terms and provisions of this Act, apply to and regulate all matters of pleading, practice and procedure in such action, and notwithstanding anything in this Act contained, the forms and method, and the pleadings, practice and procedure in any such action shall conform to and be regulated by any rules or orders in that behalf hereafter lawfully and duly made or prescribed with respect to actions brought in any such Court. 49 V. c. 28, s. 15.

16. Whereas certain railway companies, some of which carry on operations partly within the Province and partly without, have, in accordance with the provisions of certain Acts of the Parliament of Canada, established insurance and provident societies or associations to provide and secure, in case of sickness, accident or death, aid to such of the employees of the companies as are members of such societies or associations; and whereas it is desirable that nothing in this Act contained should have the effect of impairing the advantages derivable from any such association, or of making its operations less beneficial to the workmen employed by such companies; and whereas with a view to enactment of any safe and proper provisions which may be necessary in the premises, it is desirable that time should be afforded for further and more complete inquiry in that behalf: Therefore, it is hereby enacted that, where any railway company or employer has, in accordance with the provisions of any Act of the Parliament of Canada, or otherwise, established an insurance and provident society or association, of which at least two-thirds of the employees of said company or employer shall have become members, and which society or association, shall provide for its members aid in case of sickness, accident or death, to at least the extent and amount provided and secured in that respect by the insurance and provident society or association now established by the Grand Trunk Railway Company of Canada, in accordance with the provisions of certain Acts of the Parliament of Canada, then and in every such case this Act shall not, until after the first day of April, 1888, apply to any such railway company or employer: Provided, however, that notwithstanding anything in this section contained, this Act shall be held to apply to every such railway company and employer in respect of any personal injury caused to a workman by reason of any of the matters mentioned in section 4 of this Act, and in respect of any action for the recovery of compensation for any such last mentioned injury: Provided, moreover, that notwithstanding anything in this section contained, this Act shall be held to apply to every railway company and employer in respect of any personal injury within the meaning of this Act, caused to a workman who is not a member of the insurance and provident society or association so established by the company or employer as aforesaid, and in respect of any action for the recovery of compensation for any such last mentioned injury. 49 V. c. 28, s. 17; 50 V. c. 22, ss. 1, 2.

Application of
Act limited.

CHAPTER 142.

An Act respecting Apprentices and Minors.

INTERPRETATION, s. 1.

MINORS :—

Appointment and authority of guardians, ss. 2, 3.

Abandonment by parents, etc., s. 4.

May bind themselves to service in certain cases, s. 5.

Apprenticing, ss. 6-8.

Wages, s. 9.

Transference of apprentice, ss. 10, 11.

Duties of master, s. 12.

of apprentice, s. 13.

When indenture may be altered or annulled, ss. 14, 15.

Emancipation from guardian's authority, s. 16.

Cancellation of guardianship or apprenticeship in certain cases, s. 17.

Deserting employment, s. 18.

Proceedings on complaints against apprentice, ss. 19, 20.

Harbouring absconding apprentices, s. 21.

When master may avoid indenture, s. 22.

Jurisdiction of General Sessions, s. 23.

Costs—Fines, ss. 24, 25.

APPEALS, ss. 26-28.

POWERS OF CHARITABLE SOCIETIES, s. 29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

INTERPRETATION*.

Meaning of the word "master."

1. The word "Master," when it occurs in this Act, shall include any person or number of persons, male or female, carrying on business singly or in co-partnership, and any body corporate. R. S. O. 1877, c. 135, s. 1.

GUARDIANS TO MINORS.

Power of parents, charitable societies, etc., to appoint guardians to minors.

2. Any parent, guardian, or any other person having the care or charge of a minor, or any charitable society authorized by the Lieutenant-Governor to exercise the powers conferred by this Act, and having the care or charge of a minor, may, with the minor's consent, if the minor is a male not under the age of fourteen years, or is a female not under the age of twelve years, and without such consent if he or she is under such age, constitute, by indenture, to be the guardian of the child, any respectable trustworthy person who is willing to assume, and by indenture or other instrument in writing does assume, the duty of a parent towards the child; but the parent shall remain liable for the performance of any duty imposed by law in case the guardian fails in the performance thereof. R. S. O. 1877, c. 135, s. 2.

3. The guardian shall thereupon possess the same authority over the child as he or she would have were the ward his or her own child, and shall be bound to perform the duties of a parent toward such ward. Authority of guardians. R. S. O. 1877, c. 135, s. 3.

RIGHTS AND LIABILITIES OF MINORS.

4. No minor who has been abandoned by his or her parent or guardian, or who is dependent upon charity for support shall be removed from any public or private charitable institution, or from the custody or control of any private person who is charitably taking care of the minor, by the father or mother, or guardian of the minor against the will of the head of such public or private charitable institution, or of such private person, without an order for such removal from a Judge of the High Court or from the Judge of the County Court of the county, or mayor or police magistrate of the city or town where the minor is; and the Judge or other person hereby empowered to make an order for removal, may refuse to grant an order for the removal of the minor, unless he is satisfied that the removal will tend to the advantage and benefit of the minor. Parents and guardians of certain minors not to control their custody in certain cases except on order. R. S. O. 1877, c. 135, s. 4.

5. Where a minor over the age of sixteen years, who has no parent or legal guardian, or who does not reside with his parent or guardian, enters into an engagement written or verbal to perform any service or work, he shall be liable upon the same, and shall have the benefit thereof, as if he had been of legal age. Minors may bind themselves to labour in certain cases. R. S. O. 1877, c. 135, s. 5.

APPRENTICING MINORS.

6. A parent, guardian, or other person having the care or charge of a minor, or any charitable society being authorized by the Lieutenant-Governor in Council to exercise the powers conferred by this Act, and having the care or charge of a minor, the minor being a male and not under the age of fourteen years, may, with the consent of the minor, put and bind him as an apprentice by indenture to any respectable and trustworthy master mechanic, farmer, or other person carrying on a trade or calling, for a term not to extend beyond the minority of the apprentice; or in case of a female not under the age of twelve years, may, with her consent, bind the minor to any respectable and trustworthy person carrying on any trade or calling, or to domestic service with any respectable and trustworthy person for any term not to extend beyond the age of eighteen years. Power of parents, charitable societies, etc., to bind minors. R. S. O. 1877, c. 135, s. 6.

7. Where the father of an infant child abandons and leaves the child with the mother, the mother, with the approbation of two Justices of the Peace, may bind the child as an apprentice to any person mentioned in the last section, until the child The like power given to the mother when the father abandons his infant children.

attains the age of twenty-one years in the case of a male; and eighteen in the case of a female; and an indenture to that effect under the hand and seal of the mother and countersigned by such Justices shall be valid; but no child, having attained the age of fourteen years, shall be so apprenticed, unless he or she consents. R. S. O. 1877, c. 135, s. 7.

Certain minors
may be ap-
prenticed with
consent.

8.—(1) In a city or town, the mayor, Judge of the County Court or Police Magistrate, and in a county, the Judge of the County Court of the county may put and bind for the like period to any person mentioned in the several sections of this Act, with the consent of such person and of the minor, any minor who is an orphan or has been deserted by his or her parents or guardian, or whose parents or guardian have been for the time committed to a common gaol or house of correction, or any minor who is dependent upon public charity for support; and such apprentice and the master of such apprentice shall be held in the same manner as if the apprentice had been bound by his or her parent. R. S. O. 1877, c. 135, s. 8.

When consent
of minor not
required.

(2) In the case of a minor, if a male under the age of fourteen years, or if a female under the age of twelve years, who has been deserted by his or her parents or guardian, or whose parents or guardian have been for the time committed to a common gaol or house of correction, or who is dependent upon public charity for support, the consent of such minor shall not be necessary for the purposes of this section. 49 V. c. 16, s. 31.

Wages of
minors.

9. All wages reserved by any indenture or otherwise to be paid for the service of any minor, shall, if not payable to the parent, be either payable to the minor or to some person for the benefit of the minor. R. S. O. 1877, c. 135, s. 9.

If the master
dies, appren-
tice to be
transferred to
his successor in
the business.

10. If the master of the apprentice dies, the apprentice if a male, shall by act of law, be transferred to the person (if any) who continues the establishment of the deceased; and such person shall hold the apprentice upon the same terms as the deceased, if alive would have done. R. S. O. 1877, c. 135, s. 10.

Apprentices
may be trans-
ferred.

11. A master may transfer his apprentice, with his consent to any person who is competent to receive or take an apprentice and who carries on the same kind of business. R. S. O. 1877, c. 135, s. 11.

Duties of
masters to
wards appren-
tices.

12. Every master shall provide his apprentice, during the term of his apprenticeship with suitable board, lodging and clothing, or such equivalent therefor as is mentioned in the indenture, and shall also properly teach and instruct him, or cause him to be taught and instructed in his trade or calling. R. S. O. 1877, c. 135, s. 12.

13. Every apprentice shall during the term of his apprenticeship faithfully serve his master, shall obey all his lawful and reasonable commands, and shall not absent himself from his service, day or night, without his consent. R. S. O. 1877, c. 135, s. 13.

Duty of apprentices.

COMPLAINTS.

14. A Judge of the County Court or a Police Magistrate upon complaint made by a minor bound as aforesaid, or by any person on his or her behalf, or by the person to whom an apprentice is bound, may alter the mode in which payment of wages is to be made, by directing payment to the apprentice, or to some other person, in lieu of the manner set out in the indenture; or may upon proof of gross misconduct or neglect of duty annul the indenture of apprenticeship or of service, and may compel the person in whose possession, power, custody or control the indenture is, to produce and deliver the same in Court, in order to have the indenture cancelled, or to have the order varying the said indenture endorsed thereon, as the case may require. R. S. O. 1877, c. 135, s. 14.

Alteration in mode of payment of wages upon application for the purpose.

Indenture may be annulled for misconduct of master.

15. A County Court Judge or Police Magistrate may after allowing a reasonable time for production and delivery, issue a warrant for the imprisonment of the person in default, for any term not exceeding six months, unless the indenture or instrument is previously produced and delivered for the purpose aforesaid. R. S. O. 1877, c. 135, s. 15.

Committal for refusing to produce indenture.

16. A Judge of the County Court or Police Magistrate upon complaint of any minor over whom a person has been appointed guardian under section 2 of this Act, or of any person on behalf of the minor, and upon proof of gross misconduct or neglect of duty on the part of the guardian may emancipate the minor from the authority of the said guardian. R. S. O. 1877, c. 135, s. 16.

Emancipation from authority of guardian.

17. A Judge of the County Court in any case, and a Police Magistrate in case the apprenticing of a child or the appointment of a guardian under this Act has not been by the parent of the child, may on the application of either the parent or child, cancel the indenture of apprenticeship, if satisfied that the same was injudiciously or improperly entered into; or cancel the appointment of a guardian, and restore the child to the parent, if satisfied that the parent is a fit and proper person to take charge of the child; and in case such cancellation of the guardianship is on the application of the parent, the authority of the parent shall revive as if no guardian had been appointed. R. S. O. 1877, c. 135, s. 17.

Cancellation of indenture of apprenticeship or appointment of guardian.

18. In case an apprentice absents himself from his master's service or employment before the time of his apprenticeship expires, he may at any time thereafter, if found in Ontario, be

Liability of apprentice deserting his master's service.

compelled to serve his master for so long a time as he so absented himself, unless he makes satisfaction to his master for the loss sustained by such absence. R. S. O. 1877, c. 135, s. 18.

How complaints may be heard.

19.—(1) In case an apprentice refuses to serve as above required or to make such satisfaction to his master, or to obey the lawful commands of his master, or in any other way refuses or neglects to perform his duty to his master, and if the master, or his overseer or agent, complains on oath to a Justice of the Peace or Police Magistrate, either in the county, city or town where the master resides, or in any county, city or town where the absconding apprentice is found, such Justice or Police Magistrate may cause the apprentice to be summoned to appear or be apprehended and brought before him, or before some other Justice of the Peace; and such Justice, upon hearing the complaint, shall determine what satisfaction shall be made by the apprentice to the master.

Committal of apprentice in certain cases, etc.

(2) In case the apprentice does not give or make such satisfaction immediately, or in case the satisfaction is of such a nature as not to admit of immediate performance, if he does not give sufficient security to make such satisfaction, then the Justice or Police Magistrate may commit the apprentice to the common gaol or house of correction of the county, city or town, for any time not exceeding three months; and such imprisonment shall not release the apprentice from the obligation to make up the lost time to the master. R. S. O. 1877, c. 135, s. 19.

Limitation of proceedings against absconding apprentice.

20. Where the apprentice has not left Ontario, or having left Ontario, has returned thereto, the master shall not proceed against the apprentice under this Act, except within three years next after the expiration of the term for which the apprentice contracted to serve, or next after his return, as the case may be. R. S. O. 1877, c. 135, s. 20.

Penalty for employing or harbouring absconding apprentices.

21. Any person who knowingly harbours or employs an absconding apprentice, shall pay to the master of the apprentice the full value of the apprentice's labour; and such value shall be what the master would have received from the labour and service of the apprentice if he had continued faithfully in his master's service; and the master may recover the same in any Court having jurisdiction where the apprentice has been employed, or where the master resides. R. S. O. 1877, c. 135, s. 21.

Indenture may be avoided if apprentice becomes insane, a convict, or absconds.

22. If an apprentice becomes insane, or is convicted of a felony, or is sentenced to the Central Prison, Provincial Reformatory, or to the Penitentiary, or absconds, his master may within one month thence next ensuing, but not afterwards, avoid the indenture of apprenticeship, from the time he gives notice in writing of his intention to do so to the other parties to the indenture, either by serving them with the notice or a copy thereof, or by

inserting the same in the *Ontario Gazette*, or in a newspaper of the county or city where the master's establishment is situated. R. S. O. 1877, c. 135, s. 22.

23. The Court of General Sessions of the Peace shall have a concurrent primary jurisdiction over offences committed against this Act, and shall also have authority to make any order which under this Act may be made by a Judge of the County Court. R. S. O. 1877, c. 135, s. 23.

Act not to affect jurisdiction of General Sessions.

24. The Court of General Sessions, Judge, Police Magistrate or Justice, may, on any complaint or other proceeding under this Act make such order as to payment of costs as appears just. R. S. O. 1877, c. 135, s. 24.

Costs.

25. All fines imposed and collected under this Act shall be paid to the treasurer of the local municipality, where the offence was committed. R. S. O. 1877, c. 135, s. 25.

Application of fines.

APPEALS.

26. Either party may, except as to matters provided for in the next section, appeal to the Court of General Sessions from the decision of a Justice or Police Magistrate, under this Act, in manner provided for in cases of summary conviction; and the said Court, when called upon to adjudicate upon an appeal in any matter under this Act, may make the like order as it might have made, had the complaint been brought before it in the first instance. R. S. O. 1877, c. 135, s. 26.

Appeal to General Sessions.

27.—(1) There shall be an appeal to a Judge of the High Court in Chambers from any order made by a Court of General Sessions, County Court Judge, or a Police Magistrate, cancelling or varying an indenture of apprenticeship, or cancelling the appointment of a guardian; which appeal shall be by summary petition, a copy whereof shall be served upon the opposite party within ten days from the day upon which judgment is rendered, unless a Judge of the High Court, or the Master in Chambers allows further time; and the petition shall be returnable upon the tenth day after the day of service thereof.

Appeal to a Judge in Chambers.

Proceedings on appeal.

(2) The Judge, or Master in Chambers aforesaid, in granting further time may impose such terms as to further evidence, costs and otherwise as he sees fit; but the adjudication on the appeal shall be by the Judge only. R. S. O. 1877, c. 135, s. 27.

28. The Judge, upon consideration of the evidence taken upon the hearing, (a certified copy whereof shall be produced before him,) and such further evidence aforesaid (if any) may make such order in the premises, and as to costs and other-

Order of Judge;

further evidence.

wise, as he may consider fitting; or before adjudication upon the appeal, he may in his discretion permit further evidence, either written or oral, to be adduced upon such terms as he considers just. R. S. O. 1877, c. 135, s. 28.

POWERS OF CHARITABLE SOCIETIES.

Charitable societies may be authorized to exercise powers under this Act.

29. The Lieutenant-Governor in Council may authorize any charitable society, incorporated or unincorporated, to exercise for a limited time or otherwise, the powers conferred by this Act, and may revoke or suspend any Order in Council made for that purpose; and after such revocation such Society shall not possess the authority to exercise such powers unless and until again authorized by Order in Council. R. S. O. 1877, c. 135, s. 29.

4. *LANDLORD AND TENANT.*

CHAP. 143.—LANDLORD AND TENANT, p. 1311.

“ 144.—OVERHOLDING TENANTS, ETC., p. 1326.

CHAPTER 143.

An Act respecting the Law of Landlord and Tenant.

INTERPRETATION, s. 1.	When half year's rent in arrear, ss. 17-22.
APPORTIONMENT OF RENTS AND CERTAIN OTHER PERIODICAL PAYMENTS, ss. 2-6.	When lease is determined and tenant refuses to quit, ss. 23-26.
APPORTIONMENT OF CONDITION OF RE-ENTRY, s. 7.	EXEMPTIONS FROM DISTRESS :
MERGER OF REVERSION EXPECTANT ON A LEASE, s. 8.	Goods exempt from execution exempt from distress for rent or taxes, s. 27.
RIGHT OF RE-ENTRY, s. 9.	Goods not the property of tenant exempt, s. 28.
ASSIGNMENTS BY PERSONS UNDER DISABILITY, s. 10.	Set-off against rent, s. 29.
RESTRICTIONS ON AND RELIEF AGAINST FORFEITURE OF LEASES, s. 11.	Surrender of premises when exemption claimed, s. 30.
RESTRICTION ON EFFECT OF LICENSE UNDER A LEASE, s. 12.	RE-ENTRY OF LANDLORD, s. 31.
RESTRICTED OPERATION OF PARTIAL LICENSE, s. 13.	SALE OF CROPS, 32, 33.
WAIVER OF COVENANT, s. 14.	COSTS FOR SEIZURE OF EXEMPTED GOODS, s. 34.
NOTICES TO QUIT, s. 15.	FEES, s. 35.
TENANT TO NOTIFY LANDLORD OF ACTION FOR RECOVERY OF LAND, s. 16.	PENALTIES, s. 36.
RECOVERY OF PREMISES BY LANDLORDS :	TAXATION OF COSTS, ss. 37-41.
	APPLICATION OF SECTS. 27-30, 34, s. 42.
	COPY OF CHARGES TO BE GIVEN ON MAKING DISTRESS, s. 43.
	PROTECTION OF GOODS OF LODGERS FROM DISTRESS, ss. 44-47.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

INTERPRETATION.

1. Where the words following occur in the five following Interpretation sections of this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :

"Rents."

1. "Rents" shall include rent-service, rent-charge and rent-seck, and all periodical payments or renderings in lieu of or in nature of rent ;

"Annuities."

2. "Annuities" shall include salaries and pensions ; and

"Dividends."

3. "Dividends" shall include (besides dividends, strictly so called) all payments made by the name of dividend, bonus or otherwise out of the revenues of trading or other public companies, divisible between all or any of the members of such respective companies, whether such payments are usually made or declared at any fixed times or otherwise ; and all such divisible revenue shall, for the purposes of this Act, be deemed to have accrued by equal daily increment, during and within the period for or in respect of which the payment of the same revenue is declared or expressed to be made ; but the said word "dividend" shall not include payments in the nature of a return or reimbursement of capital. R. S. O. 1877, c. 136, s. 1.

Imp. Act
33-34 V. c.
35, s. 5.

APPORTIONMENT OF RENT.

Rents, etc., to accrue from day to day, and be apportionable in respect of time.

Imp. Act
33-34 V. c.
35, s. 2.

2. All rents, annuities, dividends, and other periodical payments in the nature of income (whether reserved or made payable under an instrument in writing or otherwise), shall like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly. R. S. O. 1877, c. 136, s. 2.

Apportioned part of rent, etc., to be payable when the next entire portion becomes due.

Imp. Act
33-34 V. c.
35, s. 3.

3. The apportioned part of such rent, annuity, dividend or other payment shall be payable or recoverable in the case of a continuing rent, annuity or other such payment when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before ; and in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if the same had not so determined, and not before. R. S. O. 1877, c. 136, s. 3.

Persons shall have the same remedies for recovering apportioned parts as for entire portion.

Imp. Act 33
34 V. c. 35,
s. 4.

4.—(1) All persons and their respective heirs, executors, administrators and assigns, and also the executors, administrators and assigns, respectively, of persons whose interests determine with their own deaths, shall have such or the same remedies for recovering such apportioned parts as aforesaid, when payable (allowing proportionate parts of all just allowances) as they respectively would have had for recovering such entire portions as aforesaid, if entitled thereto respectively :

Proviso as to rents reserved in certain cases.

(2) But persons liable to pay rents reserved out of or charged on lands or other hereditaments of any tenure, and the same lands or other hereditaments shall not be resorted to for any such apportioned part forming part of an entire or continuing rent as aforesaid specifically, but the entire or continuing rent, including such apportioned part, shall be recovered and received

by the heir or other person, who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part shall be recoverable by action from such heir or other person by the executors or other persons entitled under this Act to the same. R. S. O. 1877, c. 136, s. 4.

5. Nothing in the preceding provisions of this Act contained shall render apportionable any annual sums made payable in policies of assurance of any description. R. S. O. 1877, c. 136, s. 5.

Act not to apply to policies of assurance.
Imp. Act 33-34 V. c. 35, s. 6.

6. The preceding provisions of this Act shall not extend to any case in which it is expressly stipulated that no apportionment shall take place. R. S. O. 1877, c. 136, s. 6.

Nor where stipulation made to the contrary.
33-34 V. c. 35, s. 7.

APPORTIONMENT OF CONDITION OF RE-ENTRY.

7. Where the reversion upon a lease is severed and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him. R. S. O. 1877, c. 136, s. 7.

Apportionment of condition of re-entry in certain cases.
Imp. Act 22-23 V. c. 35, s. 3.

MERGER, ETC., OF REVERSIONS.

8. Where the reversion expectant on a lease of land merges or is surrendered, the estate, which for the time being confers, as against the tenant under the same lease, the next vested right to the same land, shall, to the extent of and for preserving such incidents to and obligations on the same reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the same lease. R. S. O. 1877, c. 136, s. 8.

Effect of surrender or merger of reversion expectant on a lease in certain cases.
See Imp. Act 8 & 9 V. c. 106, s. 9.

RIGHT OF RE-ENTRY.

9. In every demise made or entered into after the 25th day of March, 1886, whether by parol or in writing, unless it shall be otherwise agreed, there shall be deemed to be included an agreement that if the rent reserved, or any part thereof, shall remain unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, it shall be lawful for the landlord, at any time thereafter into and upon the demised premises, or any part thereof in the name of the whole, to re-enter and the same to have again, repossess, and enjoy as of his former estate. 49 V. c. 29, s. 1.

Right of entry.

ASSIGNMENTS BY PERSONS UNDER DISABILITY.

Assignments
by persons
under dis-
ability.

10. Where any person being under the age of twenty-one years, or a lunatic, or a person of unsound mind, shall be seised of the reversion of land subject to a lease, and such lease shall contain a covenant not to assign or sublet without leave, the guardian of such infant or the committee of such lunatic, or person of unsound mind may, with the approbation of the Judge of the Surrogate Court of the county in which the land is situate, consent to any assignment or transfer of such leasehold interest, in the same manner and with the like effect as if the consent were given by a lessor under no disability. 49 V. c. 29, s. 2.

FORFEITURE OF LEASES.

Restrictions
on and relief
against forfeit-
ure of leases.
Imp. Act, 44
& 45 V. c. 41,
s. 14.

11.—(1) A right of re-entry or forfeiture under any proviso or stipulation in a lease, for a breach of any covenant or condition in the lease, shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice specifying the particular breach complained of, and if the breach is capable of remedy, requiring the lessee to remedy the breach, and, in any case, requiring the lessee to make compensation in money for the breach, and the lessee fails, within a reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor for the breach.

(2) Where a lessor is proceeding by action or otherwise, to enforce such a right of re-entry or forfeiture, the lessee may, in the lessor's action, if any, or in any action brought by himself, apply to the Court for relief; and the Court may grant or refuse relief, as the Court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances, thinks fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the Court in the circumstances of each case thinks fit.

(3) For the purposes of this section, a lease includes an original or derivative under-lease, also a grant at a fee farm rent, or securing a rent by condition; and a lessee includes an original or derivative under-lessee, and the heirs, executors, administrators, and assigns of a lessee, also a grantee under such a grant as aforesaid, his heirs and assigns: and a lessor includes an original or derivative under-lessor, and the heirs, executors, administrators, and assigns of a lessor, also a grantor as aforesaid, and his heirs and assigns.

(4) This section applies, although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease, in pursuance of the directions of any Act of Parliament or of this Legislature.

(5) For the purposes of this section, a lease limited to continue as long only as the lessee abstains from committing a breach of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

(6) This section does not extend—

(a) To a covenant or condition, against the assigning, underletting, parting with the possession, or disposing of the land leased; or to a condition for forfeiture on the bankruptcy of the lessee, or on the taking in execution of the lessee's interest; or

(b) In case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof. 49 V. c. 20, s. 16 (1-6).

A "mining lease" is a lease for mining purposes, that is, the searching for, working, getting, making merchantable, carrying away, or disposing of mines and minerals, or purposes connected therewith, and includes a grant or license for mining purposes. 49 V. c. 20, s. 3 (7).

(7) This section shall not affect the law relating to re-entry or forfeiture or relief in cases of non-payment of rent.

(8) This section applies to leases made either before or after the 25th day of March, 1886, and shall have effect notwithstanding any stipulation to the contrary. 49 V. c. 20, s. 16 (7, 8).

LICENSES.

12. Where a license to do any act which, without such license, would create a forfeiture, or give a right to re-enter, under a condition or power reserved in a lease heretofore granted, or to be hereafter granted, has been, at any time since the 18th day of September, 1865, given to a lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent a proceeding for any subsequent breach (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and virtue, and shall be avail-

Restriction on effect of license under power contained in lease, etc. Imp. Act 22-23 V. c. 35, s. 1.

able as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made punishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done. R. S. O. 1877, c. 136, s. 9.

Restricted
operation of
partial
licenses.
Imp. Act 22
23 V. c. 35,
s. 2.

13. Where in a lease heretofore granted or to be hereafter granted, there is a power or condition of re-entry on assigning or underletting or doing any other specified act without license, and at any time since the 18th day of September, 1865, a license has been or is given to one of several lessees or co-owners to assign or underlet his share or interest, or to do any other act prohibited to be done without license, or has been or is given to a lessee or owner, or any one of several lessees or owners, to assign or underlet part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees or owner or owners of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be), over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license. R. S. O. 1877, c. 136, s. 10.

WAIVER OF COVENANT.

Waiver not to
extend further
than to the
particular
instance
mentioned.

14. Where an actual waiver of the benefit of a covenant or condition in a lease, on the part of a lessor, or his heirs, executors, administrators or assigns, is proved to have taken place after the 18th day September, 1865, in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which such waiver specially relates, nor to be a general waiver of the benefit of any such covenant or condition, unless an intention to that effect appears. R. S. O. 1877, c. 136, s. 11.

LENGTH OF NOTICES TO QUIT.

Notice to quit
in case of
weekly or
monthly
tenancies.

15. In the case of tenancies from week to week and from month to month, a week's notice to quit and a month's notice to quit, respectively, ending with the week or the month, as the case may be, shall be deemed sufficient notice to determine, respectively, a weekly or monthly tenancy. R. S. O. 1877, c. 136, s. 15.

TENANTS TO NOTIFY LANDLORDS.

16. Every tenant to whom a writ in an action for the recovery of land has been delivered, or to whose knowledge it comes, shall forthwith give notice thereof to his landlord, or to his bailiff or receiver, and if he omits so to do, he shall forfeit to the person of whom he holds, the value of three years' improved or rack rent of the premises demised or holden in the possession of such tenant, to be recovered by action in any Court having jurisdiction for the amount. R. S. O. 1877, c. 51, s. 58.

Penalty on tenant receiving writ for recovery of land and not notifying his landlord.

RECOVERY OF PREMISES BY LANDLORDS.

Where a half-year's rent in arrear.

17. In all cases between landlord and tenant, as often as it happens that one-half year's rent is in arrear, and the landlord or lessor to whom the same is due has the right by law to re-enter for non-payment thereof, such landlord or lessor may, without any formal demand or re-entry, serve a writ for the recovery of the demised premises; or in case the same cannot be legally served, or no tenant is in actual possession of the premises, then the landlord or lessor may affix a copy thereof upon the door of any demised messuage; or in case the action is not for the recovery of any messuage, then upon some notorious place of the lands, tenements or hereditaments comprised in the writ; and such affixing shall be good service thereof, and shall stand instead of a demand and re-entry. R. S. O. 1877, c. 51, s. 59.

Landlord having power to re-enter for non-payment of rent, may recover possession.

18. In case of judgment against the defendant for non-appearance, if it is shewn by affidavit to the Court, or is proved upon the trial in case the defendant appears, that half a year's rent was due before the writ was served, and that no sufficient distress was to be found on the demised premises countervailing the arrears then due, and that the lessor had power to re-enter, the lessor shall recover judgment and have execution in the same manner as if the rent in arrear had been demanded, and re-entry made. R. S. O. 1877, c. 51, s. 60.

How such right shall be exercised.

19. In case the lessee or his assignee, or other person claiming or deriving title under the lease, permits and suffers judgment to be had on such trial and execution to be executed thereon, without paying the rent and arrears together with full costs, and without proceeding for equitable relief within six months after execution executed, then and in every such case the lessee and his assignee and all other persons claiming and deriving under the lease, shall be barred and foreclosed from all relief or remedy other than by proceedings by way of appeal from the judgment, and the landlord or lessor shall from thenceforth hold the demised premises discharged from the lease. R. S. O. 1877, c. 51, s. 61.

Consequences of the exercise of such right.

As to mortgagees of lease.

20. Nothing hereinbefore contained shall bar the right of any mortgagee of such lease or any part thereof who is not in possession, if the mortgagee, within six months after such judgment obtained and execution executed, pays all rent in arrear, and all costs and damages sustained by the lessor or person entitled to the remainder or reversion, and performs all covenants and agreements which on the part and behalf of the first lessee are to be, or ought to be performed. R. S. O. 1877, c. 51, s. 62.

Proceedings if the tenant ejected seeks equitable relief.

21. In case the lessee, his assignee or other person claiming any right, title or interest of, in or to the lease, proceeds for equitable relief within the time aforesaid, such person shall not be entitled to a stay of the proceedings, unless within forty days next after an application for a stay of the proceedings he brings into Court and lodges with the proper officer such sum of money as the lessor or landlord swears to be due and in arrear over and above all just allowances, and also the costs taxed in the said action, there to remain until the hearing of the application for equitable relief, or to be paid out to the lessor or landlord on good security, subject to the judgment or order of the Court; and in case such proceedings for equitable relief are taken within the time aforesaid, and after execution has been executed, the lessor or landlord shall be accountable only for so much as he really and *bona fide*, without fraud, deceit or wilful neglect, has made of the demised premises from the time of his entering into the actual possession thereof, and if what he has so made is less than the rent reserved on the lease, then the lessee or his assignee, before being restored to his possession, shall pay the lessor or landlord what the money so by him made fell short of the reserved rent for the time the lessor or landlord held the lands. R. S. O. 1877, c. 51, s. 63.

Discontinuance if tenant pays arrears of rent and costs before trial, etc.

22. If the tenant or his assignee at any time before the trial in the action pays or tenders to the lessor or landlord, or to his solicitor in the cause, or pays into Court all the rent and arrears together with the costs, all further proceedings in the action shall cease; and if the lessee or his assigns, upon such proceeding as aforesaid, obtains equitable relief he and they shall have, hold and enjoy the demised lands according to the lease thereof made, without any new lease. R. S. O. 1877, c. 51, s. 64.

Where lease is determined and tenant refuses to go out.

Proceedings when the time for which any tenant holds the lands leased has expired, and the tenant refuses to deliver possession after notice.

23. In case (1,) the term or interest of any tenant of any lands, tenements or hereditaments, holding the same under a lease or agreement in writing for any term or number of years certain, or from year to year, expires or is determined either by the landlord or tenant by regular notice to quit; and (2,) in case a lawful demand of possession in writing, made and signed by the landlord or his agent, is served personally upon the tenant or any person holding or claiming under him, or is

left at the dwelling house or usual place of abode of such tenant or person; and (3,) in case such tenant or person refuses to deliver up possession accordingly, and the landlord thereupon proceeds by action for recovery of possession, he may, at the foot of the writ of summons, address a notice to such tenant or person, requiring him to find such security, if ordered by the Court or a Judge, and for such purposes as are hereinafter next specified. R. S. O. 1877, c. 51, s. 65.

24. Upon the appearance of the party, or in case of non-appearance then on making and filing an affidavit of service of the writ and notice, and on the landlord's producing the lease or agreement, or some counterpart or duplicate thereof, and proving the execution of the same by affidavit, and upon affidavit that the premises have been actually enjoyed under such lease or agreement, and that the interest of the tenant has expired, or been determined by regular notice to quit (as the case may be), and that possession has been lawfully demanded in manner aforesaid, the landlord may apply to the Court or a Judge for a rule or summons for such tenant or person to shew cause, within a time to be fixed by the Court or Judge on a consideration of the situation of the premises, why such tenant or person should not enter into a bond by himself and two sufficient sureties, in a reasonable sum, conditioned to pay the costs and damages which may be recovered by the plaintiff in the action, and the Court or Judge, upon cause shewn or upon affidavit of the service of the rule or summons in case no cause is shewn, may make the same absolute in whole or in part, and order such tenant or person within a time to be fixed, upon a consideration of all the circumstances, to give such bond to the plaintiff with such conditions and in such manner as may be specified in the said rule or summons, or the part of the same so made absolute. R. S. O. 1877, c. 51, s. 66.

Circumstances under which landlord may give notice to tenant to find security.

25. In case the party neglects or refuses to comply with such rule or order, and gives no ground to induce the Court or Judge to enlarge the time for obeying the same, then the lessor or landlord, upon filing an affidavit that such rule or order has been made and served and not complied with, may sign judgment for the recovery of possession and costs of suit. R. S. O. 1877, c. 51, s. 67.

If not given when ordered, judgment may be signed.

26. No action or other proceeding shall be commenced upon the bond after six months from the time when the possession of the premises or any part thereof has been actually delivered to the landlord. R. S. O. 1877, c. 51, s. 69:

Limitation of actions upon bond.

EXEMPTIONS FROM DISTRESS.

27.—(1) The goods and chattels exempt from seizure under execution, shall not be liable to seizure by distress by a landlord for rent in respect of a tenancy created after the first day of

Goods exempt from execution to be exempt from distress.

October, 1887, except as hereinafter provided; nor shall such goods be liable to seizure by distress by a collector of taxes accruing after the said first day of October, 1887, unless they are the property of the person actually assessed for the premises, and whose name also appears upon the collector's roll for the year as liable therefor.

(2) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. 50 V. c. 23, s. 1.

Goods on premises not property of tenant to be exempt.

28.—(1) A landlord shall not distrain for rent on the goods and chattels the property of any person except the tenant or person who is liable for the rent, although the same are found on the premises; but this restriction shall not apply in favour of a person claiming title under or by virtue of an execution against the tenant, or in favour of any person whose title is derived by purchase, gift, transfer, or assignment from the tenant, whether absolute or in trust, or by way of mortgage or otherwise, nor to goods on the premises in the possession of the tenant under a contract for purchase, or by which he may or is to become the owner thereof upon performance of any condition, nor where goods have been exchanged between two tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord; nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law, or son-in-law of the tenant, or by any other relative of his, in case such other relative lives on the premises as a member of the tenant's family.

(2) Nothing in this section contained shall exempt from seizure by distress goods or merchandise in a store or shop managed or controlled by an agent or clerk for the owner of such goods or merchandise when such clerk or agent is also the tenant and in default and the rent is due in respect of the store or shop and premises rented therewith and thereto belonging, when such goods would have been liable to seizure but for this Act.

(3) The word "tenant" in this section shall extend to and include the sub-tenant and the assigns of the tenant and any person in actual occupation of the premises under or with the assent of the tenant during the currency of the lease, or while the rent is due or in arrear, whether he has or has not attained to or become the tenant of the landlord.

(4) In case of an assignment for the general benefit of creditors the preferential lien of the landlord for rent is restricted to the arrears of rent due during the period of one year last previous to the execution of such assignment, and from thence so long as the assignee shall retain the premises leased. 50 V. c. 23, s. 2.

29.—(1) A tenant may set-off against the rent due a debt Right of set-off. due to him by the landlord.

(2) The set-off may be by a notice in the form or to the effect following, and may be given before or after the seizure :

Take notice, that I wish to set-off against rent due by me to you, the debt which you owe to me on your promissory note for _____, dated _____ (or for eight months' wages at \$20 per month, \$160,) (or as the case may be).

In case of such notice the landlord shall only be entitled to distrain for the balance of rent after deducting any debt justly due by him to the tenant. 50 V. c. 23, s. 3.

30.—(1) A tenant who is in default for non-payment of rent and claims the benefit of the exemption to which he is entitled under this Act, must give up possession of the premises forthwith, or be ready and offer to do so. Tenant claiming exemption must surrender premises.

(2) The offer may be made to the landlord or to his agent; and the person authorized to seize and sell the goods and chattels, or having the custody thereof for the landlord, shall be considered an agent of the landlord for the purpose of the offer and surrender to the landlord of the possession.

(3) The surrender of possession in pursuance of the landlord's notice shall be a determination of the tenancy.

(4) Where a landlord desires to seize the exempted goods, he shall, after default has been made in the payment of rent and before or at the time of seizure serve the tenant with a notice which shall inform the tenant what amount is claimed for rent in arrear, and that in default of payment, if he gives up possession of the premises to the landlord after service of the notice, he will be entitled to claim exemption for such of his goods and chattels as are exempt from seizure under execution, but that if he neither pays the rent nor gives up possession his goods and chattels will be liable to seizure, and will be sold to pay the rent in arrear and costs.

(5) The notice may be in the following form or to the like effect :

Take notice that I claim \$ _____ for rent due to me in respect of the premises which you hold as my tenant, namely, (*here briefly describe them*); and unless the said rent is paid, I demand from you immediate possession of the said premises; and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me up possession of the said premises after the service of this notice, I am by law entitled to seize and sell, and I intend to seize and sell all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

This notice is given under the Act of the Legislature of Ontario, respecting the Law of Landlord and Tenant.

Dated this _____ day of _____ A.D.

(Signed) A.B. (*landlord*).

To C.D. (*tenant*.)

(6) Service of papers under this Act shall be made either personally or by leaving the same with some grown person being in and apparently residing on the premises occupied by the person to be served.

(7) If the tenant cannot be found and his place of abode is either not known, or admission thereto cannot be obtained, the posting up of the paper on some conspicuous part of the premises, shall be deemed good service.

(8) No proceeding under this section shall be deemed defective or rendered invalid by any objection of form. 50 V. c. 23, s. 4.

RE-ENTRY OF LANDLORD.

Common law,
strict demand
of rent dis-
pensed with
when landlord
entitled to re-
enter.

31. Where a landlord has by law a right to enter for non-payment of rent, it shall not be necessary to demand the rent on the day when due, or with the strictness required at common law, and a demand of rent shall suffice notwithstanding more or less than the amount really due is demanded, and notwithstanding other requisites of the common law are not complied with: provided that, unless the premises are vacant, the demand be made fifteen days at least before entry; such demand to be made on the tenant personally anywhere, or on his wife or some other grown up member of his family on the premises. 50 V. c. 23, s. 5.

SALE OF GROWING CROPS.

Sale of grow-
ing crops.

32. When growing or standing crops, which may be seized and sold under execution, are seized for rent, they may, at the option of the landlord or upon the request of the tenant, be advertised and sold in the same manner as other goods, and it shall not be necessary for the landlord to reap, thresh, gather or otherwise market the same. 50 V. c. 23, s. 6.

Liability of
purchaser of
growing crops.

33. Any person purchasing a growing crop at such sale, shall be liable for the rent of the lands upon which the same is growing at the time of the sale, and until the crop shall be removed, unless the same has been paid or has been collected by the landlord, or has been otherwise satisfied, and the rent shall, as nearly as may be, be the same as that which the tenant whose goods were sold was to pay, having regard to the quantity of land and to the time which the purchaser shall occupy it. 50 V. c. 23, s. 7.

COSTS.

Costs in
respect of
seizure of
exempted
goods.

34. No costs shall be levied for or in respect of the seizure upon exempted goods when they may not be lawfully sold, and when sold no greater sum in all than \$2, and actual and necessary payments for possession money, shall be levied or retained for or in respect of costs and expenses of sale of such exempted goods. 50 V. c. 23, s. 8.

35. When the sum to be levied by distress for rent or for Scale of fees. any penalty exceeds the sum of \$80 no further charges shall be made for or in respect of costs or expenses by any person making the distress or employed in doing any act in the course of such distress than such as are set forth in Schedule A of the Rev. Stat. c. 63. Act entitled *An Act respecting the Costs of Distress*, than the following, that is to say :

- (a) The actual expenses or outlay reasonably incurred in removing the goods distrained or part thereof when such removal is necessary :
- (b) Advertisement when necessarily published in a newspaper, \$2.50 ; but not exceeding \$5.00.
- (c) If any printed advertisement otherwise than in a newspaper, \$1.00 ; but not to exceed \$3.00.
- (d) The sum of \$1.00 per day for man keeping possession, in lieu of 75 cents per day.
- (e) Where the amount due shall be satisfied in whole or in part, after seizure and before sale, the bailiff or person seizing shall be entitled to charge and receive but three per cent on the amount realized, in lieu of five per cent, and no more. 50 V. c. 23, s. 9.

36. Any person who offends against the preceding two sections of this Act shall be liable to the penalties provided by section 2 of *The Act respecting the Costs of Distress*, and such proceedings may be had and taken for the punishment of the offender and the imposition and collection of such penalties as are provided by section 2 and subsequent sections of said last-mentioned Act. Section 34 to 42 inclusive of this Act shall be read with and as part of the said Act. 50 V. c. 23, s. 10. Penalties. Rev. Stat. c. 63.

37. The person whose goods are distrained or the person authorizing the distress, or any other person interested, may, upon giving two days' notice in writing, have the costs of the bailiff or other person making the distress and the disbursements charged taxed by the clerk of the Division Court within whose division the distress has been made. 50 V. c. 23, s. 11. Taxation of costs.

38. The bailiff or person so making the said distress shall furnish the clerk with a copy of his costs, charges and disbursements for taxation at the time mentioned in the notice, or at such other time as the clerk may direct, and in default of his so doing he shall not be entitled to any costs, charges or disbursements whatever. 50 V. c. 23, s. 12. Persons making distress to give bill of costs to clerk for taxation.

39. The clerk upon such taxation shall, amongst other things, consider the reasonableness of any charges for removal, keeping possession, and for advertising, or any sums alleged to Duty of clerk on taxation.

have been paid therefor, and may examine either party on oath, touching the same. The person requiring the taxation shall pay the clerk a fee of twenty-five cents therefor. 50 V. c. 23, s. 13.

Revision of
taxation.

40. Where that portion of the bill or charges in dispute amounts to the sum of \$10, either party may, on giving two days' notice, have the taxation revised by the clerk of the County Court. He shall be paid a fee of fifty cents for such revision by the person appealing, and it may, in the discretion of the clerk, be deducted from or added to the bill as finally taxed by him. 50 V. c. 23, s. 14.

Taxation not
conclusive on
proceedings
under Rev.
Stat. c. 63, s. 2.

41. In any proceedings taken under section 2 of *The Act respecting the Costs of Distress*, the taxation shall not be received as conclusive evidence. 50 V. c. 23, s. 15.

APPLICATION OF CERTAIN SECTIONS.

Application of
ss. 27-30 and
34.

42. Sections 27, 28, 29, 30 and 34, shall apply only to tenancies created on or after the first day of October, 1897. 50 V. c. 23, s. 16.

COPY OF CHARGES TO BE GIVEN ON MAKING DISTRESS.

Persons levy-
ing distress to
give copy of
charges to
party dis-
trained.

43. Every person who makes and levies any distress shall give a copy of demand, and of all the costs and charges of the distress, signed by him, to the person on whose goods and chattels the distress is levied. R. S. O. 1877, c. 136, s. 16. *See also* Cap. 63, s. 11.

PROTECTION OF GOODS OF LODGERS FROM DISTRESS.

Declaration
by boarder or
lodger that
immediate
tenant has no
property in
goods dis-
trained.

44. If a superior landlord shall levy or authorize to be levied a distress on any furniture, goods or chattels of any boarder or lodger for arrears of rent due to the superior landlord by his immediate tenant, the boarder or lodger may serve the superior landlord, or the bailiff or other person employed by him to levy the distress, with a declaration in writing, made by the boarder or lodger, setting forth that the immediate tenant has no right of property or beneficial interest in the furniture, goods or chattels so distrained or threatened to be distrained upon, and that such furniture, goods or chattels are the property or in the lawful possession of such boarder or lodger; and also setting forth whether any and what amount by way of rent, board or otherwise is due from the boarder or lodger to the said immediate tenant; and the boarder or lodger may pay to the superior landlord, or to the bailiff or other person employed by him as aforesaid, the amount, if any, so due as last aforesaid, or so much thereof as shall be sufficient to discharge the claim of the superior landlord: and to such

declaration shall be annexed a correct inventory, subscribed by the boarder or lodger, of the furniture, goods and chattels referred to in the declaration. 43 V. c. 16, s. 1.

45. If a superior landlord, or a bailiff or other person employed by him, after being served with the before mentioned declaration and inventory, and after the boarder or lodger shall have paid or tendered to the superior landlord, bailiff or other person, the amount, if any, which, by the last preceding section, the boarder or lodger is authorized to pay, shall levy or proceed with a distress on the furniture, goods or chattels of the boarder or lodger, the superior landlord, bailiff or other person shall be deemed guilty of an illegal distress, and the boarder or lodger may replevy such furniture, goods or chattels in any court of competent jurisdiction and the superior landlord shall also be liable to an action at the suit of the boarder or lodger, in which action the truth of the declaration and inventory may likewise be inquired into. 43 V. c. 16, s. 2. Penalty.

46. Any payment made by a boarder or lodger pursuant to section 44 of this Act shall be deemed a valid payment on account of the amount due from him to the immediate tenant mentioned in the said section. 43 V. c. 16, s. 3. Payments by boarder or lodger to superior landlord.

47. The declaration hereinbefore referred to shall be made under and in accordance with *The Act respecting Extra-judicial Oaths*. 43 V. c. 16, s. 4. Declaration how made. R. S. C. c. 141.

CHAPTER 144.

An Act respecting Overholding Tenants.

INTERPRETATION, s. 1.	COSTS, s. 7.
APPLICATION AGAINST OVERHOLDING	WITNESSES, s. 8.
TENANT, s. 2.	OTHER REMEDIES SAVED, s. 9.
PROCEEDINGS BEFORE COUNTY JUDGE,	ENTITLING AND SERVICE OF PAPERS,
ss. 3-5.	ss. 10, 11.
REMOVAL TO HIGH COURT, s. 6.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the of the Province of Ontario enacts as follows :—

Interpretation 1. In the construction of this Act—

“Tenant.” 1 “Tenant” shall mean and include an occupant, a sub-tenant, under-tenant, and his and their assigns and legal representatives ;

Landlord.” 2 “Landlord” shall mean and include the lessor, owner, the person giving or permitting the occupation of the premises, in question and the person entitled to the possession thereof, and his and their heirs and assigns and legal representatives.
R. S. O. 1877, c. 137, s. 1.

Application to be made to the County Judge against overholding tenant upon affidavit. 2. In case a tenant, after his lease or right of occupation whether created by writing or by verbal agreement, has expired, or been determined, either by the landlord or the tenant, by a notice to quit or notice pursuant to a proviso in any lease or agreement in that behalf, or has been determined by any other act whereby a tenancy or right of occupancy may be determined or put an end to, wrongfully refuses, upon demand made in writing, to go out of possession of the land demised to him, or which he has been permitted to occupy, his landlord, or the agent of his landlord, may apply to the County Judge of the county, or union of counties, in which the land lies, and wherever such Judge then is, setting forth, on affidavit, the terms of the demise or right of occupation, if verbal, and annexing a copy of the instrument creating or containing such demise or right of occupation, if in writing, (or if a copy cannot be so annexed by reason of the said writing being mislaid, lost or destroyed, or being in the possession of the tenant, or from any other cause, then annexing a statement setting forth the terms of the demise or occupation, and the reason why a copy of the said writing cannot be

annexed,) and also annexing a copy of the demand made for the delivering up of possession, and stating also the refusal of the tenant to go out of possession, and the reasons given for his refusal if any were given, adding such explanation in regard to the ground of the refusal as the truth of the case may require; and this section shall extend and be construed to apply to tenancies from week to week, from month to month, from year to year, and tenancies at will, as well as to all other terms, tenancies, holdings or occupations. R. S. O. 1877, c. 137, s. 2.

3. If, upon such affidavit, it appears to the Judge that the tenant wrongfully holds, without colour of right, and that the landlord is entitled to possession, such Judge shall appoint a time and place at which he will inquire and determine whether the person complained of was tenant to the complainant for a term or period which has expired, or has been determined by a notice to quit or otherwise, and whether the tenant, without any colour of right, holds the possession against the right of the landlord, and whether the tenant does wrongfully refuse to go out of possession, having no right to continue in possession, or how otherwise. R. S. O. 1877, c. 137, s. 3.

4. Notice in writing of the time and place so appointed for holding such inquiry, shall be served by the landlord, upon the tenant or left at his place of abode, at least three days before the day so appointed, if the place so appointed is not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the affidavit on which the appointment was obtained, and of the papers attached thereto. R. S. O. 1877, c. 137, s. 4.

5. If at the time and place appointed, as aforesaid, the tenant, having been duly notified, as above provided, fails to appear, the Judge, if it appears to him that the tenant holds without colour of right, may order a writ to issue to the sheriff, in the Queen's name, commanding him forthwith to place the landlord in possession of the premises in question; but if the tenant appears at such time and place, the Judge shall, in a summary manner, hear the parties, and examine into the matter, and shall administer an oath or affirmation to the witnesses adduced by either party, and shall examine them; and if after such hearing and examination it appears to the Judge that the case is clearly one coming under the true intent and meaning of section 2 of this Act, and that the tenant holds without colour of right against the right of the landlord, then he shall order the issue of such writ, as aforesaid, otherwise he shall dismiss the case; and the proceedings in any such case, shall form part of the

Judge may appoint time and place for inquiry.

Notice thereof to be served on the tenant.

Proceedings in default of appearance.

In case of appearance.

Proceedings to form part of the records of the Court. records of the County Court; and the said writ may be in the words or to the effect of Form 1 or Form 2, in the Schedule to this Act, according as the tenant is ordered to pay costs or otherwise. R. S. O. 1877, c. 137, s. 5.

Removal on *certiorari*.

6. Where such writ has been issued, the High Court may on motion, within three months after the issue of the writ, command the County Judge to send up the proceedings and evidence in the case to the Court, certified under his hand, and may examine into the proceedings, and, if they find cause, may set aside the same, and may if necessary, order a writ to issue to the sheriff, commanding him to restore the tenant to his possession, in order that the question of right, if any appears, may be tried, as in ordinary actions for the recovery of land. R. S. O. 1877, c. 137, s. 6.

Writ of restitution.

Judges of High Court may make rules as to costs.

7. The Judges of the High Court may from time to time, make such rules respecting costs, in cases under this Act, as to them seem just; and the County Judge before whom any such case is brought may, in his discretion, award costs therein, according to any such rule then in force, and if no such rule is in force, reasonable costs, in his discretion, to the party entitled thereto; and in case the party complaining is ordered to pay costs, execution may issue therefor, out of the County Court as in other cases in the County Court, where an order is made for the payment of costs. R. S. O. 1877, c. 137, s. 7.

Execution.

Summoning witnesses.

8. The County Judge may cause any person to be summoned as a witness to attend before him in any such case, in like manner as witnesses are summoned in other cases in the County Court, and under like penalties for non-attendance, or refusing to answer in such case. R. S. O. 1877, c. 137, s. 8.

Other remedies of landlords.

Rev. Stat. c. 143, ss. 23-25.

9. Nothing herein contained shall in any way affect the powers of any Judge or Judges of the High Court under sections 23, 24 and 25, of *The Act respecting the Law of Landlord and Tenant*, or shall prejudice or affect any other right or right of action or remedy which landlords may possess in any of the cases herein provided for. R. S. O. c. 137, s. 9.

Proceedings, how entitled.

10. The proceedings under this Act shall be entitled in the County Court of the county or union of counties in which the premises in question are situate, and shall be styled:

"In the matter of (*giving the name of the party complaining*), Landlord, against (*giving the name of the party complained against*) Tenant."

R. S. O. 1877, c. 137, s. 10.

Service of papers.

11. Service of all papers and proceedings under this Act shall be deemed to have been properly effected if made as required by law, in respect of writs and other proceedings in actions for the recovery of land. R. S. O. 1877, c. 137, s. 11.

SCHEDULE.

FORM 1.

(Section 5.)

WRIT OF POSSESSION (WITH COSTS).

ONTARIO,
To WIT : }

Victoria, by the Grace of God, of the United Kingdom of Great Britain
and Ireland, Queen, Defender of the Faith.

[L. S.]

To the Sheriff of the

Greeting :

Whereas

of _____ Judge of the County Court
day of _____, by his order dated the
_____ A. D. 18 _____, made in pursuance of *The*
Act respecting Overholding Tenants, on the complaint of _____
against _____, adjudged
that _____ was entitled to the possession
of _____
with the appurtenances in your Bailiwick, and that a Writ should
issue out of Our said Court accordingly, and also ordered and directed that
the said _____
should pay the costs of the proceedings had under the said Act, which by
Our said Court have been taxed at the sum of _____ :

THEREFORE, WE COMMAND YOU that without delay you cause the said
_____ to have possession of the said land
and premises, with the appurtenances : And We also command you that of
the goods and chattels of the said _____
in your Bailiwick, you cause to be made
being the said costs so taxed by Our said Court as aforesaid, and have that
money in Our said Court immediately after the execution hereof, to be
rendered to the said _____

And in what manner you shall have
executed this Writ make appear to Our said Court, immediately after the
execution hereof, and have there then this Writ.

Witness,
Court at _____
of _____

, this
, A.D. 18 _____

Judge of our said
day

Clerk.

R. S. O. 1877, c. 137, Form 1.

Issued from the office of the Clerk of the
County Court of the County (or United
Counties) of _____
Clerk.

5. *PROFESSION OF THE LAW.*

CHAP. 145.—LAW SOCIETY, p. 1331.

“ 146.—BARRISTERS-AT-LAW, p. 1341.

“ 147.—SOLICITORS, p. 1343.

CHAPTER 145.

An Act respecting the Law Society of Upper Canada.

LAW SOCIETY CONTINUED, ss. 1, 2.

VISITORS, s. 3.

BENCHERS, ss. 4-47.

Election, ss. 5-34.

Powers, ss. 35-47.

LAW BENEVOLENT FUND, s. 48.

REPORTERS, ss. 49-51.

REVENUE AND EXPENDITURE, ss. 52, 53

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

LAW SOCIETY CONTINUED.

1. The Law Society of Upper Canada shall continue as at present constituted, subject to the provisions of this Act, and to the by-laws, resolutions, rules and regulations of the said Society in force at the time this Act takes effect, except so far as the same are inconsistent with this Act, until altered by the Benchers of said Society pursuant to this Act. R. S. O. 1877, c. 138, s. 1. Law Society continued.

2. The Treasurer and Benchers of the said Society, heretofore incorporated, and their successors, shall continue to be a body corporate and politic, by the name of the Law Society of Upper Canada, and without license of mortmain may purchase, take, possess, and after acquiring the same, sell, lease or depart with any lands, tenements or hereditaments for the purposes of the said Society, but for no other purpose, and may execute all other matters pertaining to them to do. R. S. O. 1877, c. 138, s. 2. Corporation continued.

VISITORS.

3. The Judges of the Supreme Court of Judicature shall be Visitors of the Society. R. S. O. 1877, c. 138, s. 3. Visitors.

BENCHERS.

Ex-officio
Benchers.

4. The Attorney-General of Canada for the time being and every person who has held that office, if a member of the Bar of Ontario, and the Attorney-General for the time being of Ontario, and all members of the Bar of Ontario, who have at any time held the office of Attorney-General of Ontario, or of Attorney-General or Solicitor-General for that part of the late Province of Canada, formerly called Upper Canada, and any retired Judge of the Supreme Court shall respectively, *ex-officio*, be Benchers of the Society. R. S. O. 1877, c. 138, s. 4.

Elective
Benchers.

5. The Benchers of the Law Society, exclusive of *ex-officio* members, shall be thirty in number, to be elected as herein-after provided. R. S. O. 1877, c. 138, s. 5.

Appointment
of scrutineers

6.—(1) The Benchers shall, during the Term next preceding an election, appoint (with their assent) two persons, who, with the Treasurer, shall act as scrutineers at the election; and the said Benchers shall also, during the said preceding Term, appoint a third person, who shall act for and as the Treasurer, in case he should be absent during the meeting of the scrutineers to count the votes. R. S. O. 1877, c. 138, s. 6.

(2) The first two mentioned scrutineers, shall be members of the Law Society, but shall not be eligible for election to the office of Bencher, and their names shall be printed on the voting paper to be sent by the Secretary of the Society to each voter. 50 V. c. 8, Sched.

Election, when
to be held.

7. An election shall be held on the first Thursday after the first Wednesday in April, 1891, and the subsequent elections shall be held on the first Thursday after the first Wednesday in April of every fifth year thereafter; but in case the scrutineers are unable to complete the scrutiny upon such day, the same shall be continued from day to day until the election is declared. In case any scrutineer is absent during the scrutiny the others may nevertheless proceed therewith. R. S. O. 1877, c. 138, s. 7.

Who may
vote.

8. Each member of the Bar, not hereinafter declared ineligible as an elector, may vote for thirty persons. R. S. O. 1877, c. 138, s. 8.

Votes to be
given by vot-
ing papers.

9. The votes shall be given by closed voting papers, in the form in the Schedule to this Act, or to the like effect, being delivered to the Secretary of the Law Society on the first Wednesday of April of the year proper for the election, or during the Monday and Tuesday immediately preceding. Any voting

papers received by the said Secretary by post during said days, or during the preceding week, shall be deemed delivered to him. R. S. O. 1877, c. 138, s. 9.

10. It shall be the duty of the Secretary to send to each member of the Bar whose name is on the alphabetical list or register mentioned in section 17, where his residence is known to the Secretary, one copy of the said form of voting paper applicable to the election then next to be held. Such form shall be sent in such manner and at such time before the holding of the election as may be directed by rule of the Benchers in convocation. 50 V. c. 8, Sched. Form of voting paper to be sent to voters.

11. It shall be the duty of the Secretary to send with the said form of voting paper, a list of those persons then already Benchers of the Law Society ex officio, and of those whose term of office is about to expire. 50 V. c. 8, Sched. List of Benchers to be sent with voting paper.

12. The said voting papers shall, upon the Thursday following, be opened by the Secretary of the Law Society in the presence of the scrutineers, who shall scrutinize and count the votes, and keep a record thereof in a proper book to be provided by the said Society. R. S. O. 1877, c. 138, s. 10. Scrutiny.

13. The thirty persons who have the highest number of votes shall be Benchers of the said Law Society for the next term of five years. R. S. O. 1877, c. 138, s. 11. Persons receiving the most votes to be elected.

14. Any person entitled to vote at such election shall be entitled to be present at the opening of the said voting papers. R. S. O. 1877, c. 138, s. 12. Who may be present at opening of voting papers.

15. In case of an equality of votes between two or more persons, which leaves the election of one or more Benchers undecided, then the said scrutineers shall forthwith put into a ballot-box a number of papers, with the names of the candidates having such equality of votes written thereon, one for each candidate, and the Secretary of the Society shall draw by chance from the ballot-box, in the presence of the scrutineers, one or more of such papers sufficient to make up the required number, and the persons whose names are upon the papers so drawn shall be the Benchers. R. S. O. 1877, c. 138, s. 13. Equality of votes.

16. No person shall be entitled to vote at an election unless all his bar fees to the Law Society have been paid. R. S. O. 1877, c. 138, s. 14. Voters to pay their bar fees.

17.—(1) The Secretary of the Law Society shall, on the first day of the Term previous to the time for any election, make out List of voters.

an alphabetical list or register of the members of the Bar who are entitled to vote at the succeeding election, and such register may be examined by any member of the said Society at all reasonable times, at the office of the said Secretary.

Complaints of errors in the list to be made to the Secretary,

with an appeal to the scrutineers.

(2) In case any member of the Society complains to the Secretary, in writing, of the improper omission or insertion of any name in the list, it shall be the duty of the Secretary forthwith to examine into the complaint and rectify the error if any there be; and in case any person is dissatisfied with the decision of the Secretary, he may appeal to the persons who have been appointed to act as scrutineers for the next election thereafter, and the decision of the scrutineers shall be final, and such list shall remain or be altered in accordance with their decision.

Persons called to the bar in Term previous to be added to list.

(3) The Secretary shall add to the list the names of all persons who have been called to the Bar during the Term previous to the election; and no alteration shall be made to the list except as is provided in this section; and the list, as it stands revised upon the last Monday of the said last-mentioned Term, shall be the register of persons entitled to vote at the next election.

(4) No person whose name is not inserted in the said list shall be entitled to vote at the election. R. S. O. 1877, c. 138, s. 15.

Qualifications of Benchers.

18. No person shall be eligible as a Bencher at any election, who is not qualified to vote at the election. R. S. O. 1877, c. 138, s. 16.

Retiring benchers eligible.

19. At all elections retiring Benchers shall be eligible for re-election. R. S. O. 1877, c. 138, s. 17.

Void votes.

20. Any votes cast for any person who is ineligible to be a Bencher, or who is a Bencher *ex officio* shall be null and void; and the election shall be declared as if such votes had not been cast. R. S. O. 1877, c. 138, s. 18.

Voting for more than thirty members.

21. In the event of an elector placing more than thirty names on his voting paper, the first thirty only shall be counted, notwithstanding any of the thirty persons so named may be ineligible for election from any cause whatever. R. S. O. 1877, c. 138, s. 19.

Declaration of election.

22. Upon the completion of the scrutiny the Secretary shall forthwith declare the result of the election and report the same to the Society, and shall cause the names to be published in the next two issues of the *Ontario Gazette*. R. S. O. 1877, c. 138, s. 20.

23. The Benchers of the Society may make such regulations as they consider expedient, not contrary to the provisions of this Act, for regulating the procedure under the preceding sections of this Act, and for the remuneration of the scrutineers. Regulations for elections and remuneration to scrutineers.
R. S. O. 1877, 138, s. 21.

24. The voting papers belonging to any election shall not be destroyed until after all petitions in respect to such election have been decided, but the same shall together with all other papers in connection with the said election be retained by the Secretary. Voting papers to be kept.
R. S. O. 1877, c. 138, s. 22.

25. No person shall sign the name of any other person to a voting paper, under this Act, or alter, or add to or falsify, or fill up any blank in a voting paper signed by another person, or deliver or cause to be delivered, or send or cause to be sent, by post or otherwise, to the Secretary, a false voting paper, or a voting paper which has been added to, or falsified or in which a blank has been filled up after the same was signed. False voting.
R. S. O. 1877, c. 138, s. 23.

26. In the event of there being no Secretary for the time being of the Law Society at the time at which any election under this Act is to be held, or in the event of the Secretary being unable from illness or other unavoidable cause to act at the elections, then and in such case the Treasurer for the time being of the Law Society shall appoint under his hand some other person to act as Secretary, and the person so appointed shall perform all the duties of the Secretary, as prescribed by this Act. Absence of Secretary.
R. S. O. 1877, c. 138, s. 24.

27. The persons so elected Benchers as aforesaid shall take office on the first day of Easter Term following their election, and shall hold office until the beginning of the fifth Easter Term after they have entered on their said office, or till the election of their successors. Term of office of Benchers.
R. S. O. 1877, c. 138, s. 25.

28. The seat of a Bencher, who has failed to attend the meetings of the Benchers for three consecutive Terms, shall at the expiration of the said period become vacant. Vacation of seat for non-attendance.
R. S. O. 1877, c. 138, s. 26.

29. The majority of the Benchers present at any meeting in the first Easter Term after their election, may appoint a committee of their number to enter upon any inquiry with respect to the due election of any of the said Benchers whose election or elections may be petitioned against by any member of the Bar who voted at the election of such Bencher or Benchers, and, after such inquiry, to report such Bencher or Benchers as duly or not duly elected or qualified according to the Committee on election petitions.

fact, and, if necessary, to report the name or names of the next in order of votes of the duly qualified members of the Bar, in lieu of the person or persons petitioned against and reported not duly elected or qualified; and on the confirmation of the report by the majority of Benchers (other than those petitioned against) present at any meeting for that purpose, the person or persons so reported, in lieu of those petitioned against as aforesaid shall be taken and deemed to be the duly elected and qualified Bencher or Benchers. R. S. O. 1877, c. 138, s. 27.

Time for filing election petitions.

30. No petition against the return of a Bencher shall be entertained unless the petition is filed with the Secretary of the Law Society at least ten days before the first day of Easter Term next succeeding the election, and shall contain a statement of the grounds on which the election is disputed, and unless a copy of the petition is served upon the Bencher whose election is disputed at least ten days before the first day of the said Easter Term; and no grounds not mentioned in the petition shall be gone into on the hearing of the petition. R. S. O. 1877, c. 138, s. 28.

Contents of petitions.

Hearing of petitions.

31. On such notice being duly filed as aforesaid, the Benchers shall during the first week of the Easter Term succeeding the election, appoint a day for the hearing of the petition, and give notice of such day to the petitioner and to the person whose return is disputed; but all such petitions shall be finally disposed of during the said Easter Term. R. S. O. 1877, c. 138, s. 29.

Petitioners to deposit \$100 with Secretary for costs.

32. Any person petitioning against the return of a Bencher shall deposit with the Secretary of the Law Society the sum of \$100 to meet any costs which such Bencher may be put to in the opinion of the committee before which the petition is heard; and the committee shall have power in the event of such petition being dismissed, to award such sum to be paid to the Bencher petitioned against as in their opinion is just; and shall have power in their discretion in the event of such Bencher being decided to be not duly elected or qualified, to award costs to the petitioner; and the costs so awarded shall be recoverable in any Court of competent jurisdiction. R. S. O. 1877, c. 138, s. 31.

Power of committee as to costs.

Election of Treasurer.

Duration of his office.

33. The Benchers shall, on the first meeting after their election, proceed to elect one of their body as Treasurer, who shall be the President of the Society; and such Treasurer shall hold office until the appointment of his successor; and the election of Treasurer shall take place on the first Saturday of Easter Term in every year; provided that the retiring Treasurer shall be eligible for re-election. R. S. O. 1877, c. 138, s. 32.

34. In case of the failure in any instance to elect the requisite number of duly qualified Benchers, according to the provisions of this Act, or in case of any vacancy caused by the death or resignation of any Bencher, or by any other cause, then it shall be the duty of the remaining Benchers, with all convenient speed, at a meeting to be specially called for the purpose, and to be held during the next Term thereafter, to supply the deficiency in the number of Benchers failed to be elected as aforesaid, or caused by any of the means aforesaid, by appointing to such vacant place or places, as the same may occur, any person or persons duly qualified under the provisions of this Act to be elected as a Bencher or Benchers; and the person or persons so elected shall hold office for the residue of the period for which the other Benchers have been elected. R. S. O. 1877, c. 138, s. 33.

Vacancies among Benchers, how filled up.

POWERS OF THE BENCHERS.

35. The Benchers may from time to time in Convocation make rules for the government of the Law Society, and other purposes connected therewith, under the inspection of the Visitors. R. S. O. 1877, c. 138, s. 34.

Benchers may make rules.

36. On the hearing of any election petition or upon any inquiry by a committee the Benchers or committee shall have power to examine witnesses under oath; and a summons under the hand of the Treasurer of the Law Society, or under the hand of three Benchers, for the attendance of a witness, shall have all the force of a subpoena; and any witness not attending in obedience thereto, shall be liable to attachment in the High Court. R. S. O. 1877, c. 138, s. 30.

Power to examine witnesses extended to an inquiry by a committee.

37. The Benchers may appoint such officers and servants as may be necessary for the management of the business of the said Law Society. R. S. O. 1877, c. 138, s. 35.

Appointment of officers.

38. The Benchers may make rules for the improvement of legal education; and may appoint readers and lecturers with salaries; and may impose fees and prescribe rules for the attendance of students and articled clerks at such readings or lectures, and for examinations thereon, as conditional to call to the Bar, or admission as Solicitor; and may establish scholarships in connection therewith; and may for proficiency at examination, by rules to be established specially in that respect, diminish the number of years of studentship on the books of the Society, or under articles of clerkship, but so as not to reduce the number of years for call to the Bar or admission as Solicitor to less than three. R. S. O. 1877, c. 138, s. 36.

Legal education.

Terms of studentship may be reduced.

39. The Benchers shall have the power heretofore exercised to call and admit to the practice of the law as a Barrister any

Call to the Bar.

person duly qualified to be so admitted, according to the provisions of law and the rules of the Society. R. S. O. 1877, c. 138, s. 37.

Admission of students and barristers.

40. The Benchers may from time to time make all necessary rules, regulations and by-laws and dispense therewith from time to time to meet the special circumstances of any special case respecting the admission of students-at-law, the periods and conditions of study, the call or admission of Barristers to practise the law, and all other matters relating to the discipline and honour of the Bar. R. S. O. 1877, c. 138, s. 38.

The Law Society to make rules for the examination of candidates for admission as Solicitor.

41. The Benchers with the approbation of the Visitors shall from time to time make such rules as they consider necessary for conducting the examination of persons applying to be admitted as Solicitors, as well touching the articles and service, and the several certificates required by law to be produced by them before their admission, as to the fitness and capacity of such persons to act as Solicitors; and the Society may from time to time nominate and appoint Examiners for conducting such examinations. R. S. O. 1877, c. 138, s. 39. *See also* Cap. 147, s. 9.

When Law Society may suspend decision.

42. In any of the foregoing cases where it appears to the Benchers expedient for purposes of further inquiry or investigation, they may suspend, for a period not exceeding twelve months, their final decision in respect to the granting or refusal of the certificate. R. S. O. 1877, c. 138, s. 40.

Articled clerks and admission of solicitors.

43. The Benchers from time to time may also make all necessary rules, regulations and by-laws and dispense therewith from time to time, to meet the special circumstances of any special case respecting the service of articled clerks, the period and conditions of such service, and the admission of Solicitors to practise in the Courts, and all other matters relating to the discipline and practice of such Solicitors and articled clerks. R. S. O. 1877, c. 138, s. 41.

Powers of Benchers to disbar or expel in case of misconduct.

44. Whenever a person, being a Barrister or a Solicitor of the Supreme Court of Ontario, or a Student-at-Law, or Solicitor's Clerk serving under articles, has been or may hereafter, be found by the Benchers of the Law Society, after due inquiry by a committee of their number or otherwise, guilty of professional misconduct, or of conduct unbecoming a Barrister, Solicitor, Student-at-Law, or articled Clerk, it shall be lawful for the said Benchers in Convocation to disbar any such Barrister, and to resolve that any such Solicitor is unworthy to practise as such Solicitor; to expel from the society, and the membership thereof, such Student or articled Clerk, and to strike his name from the books of the Society; and to refuse either absolutely

or for a limited period to admit such articled Clerk to the usual examinations, or to grant him the certificate of fitness necessary to enable him to be admitted to practice. 44 V. c. 17, s. 1.

45. Upon a Barrister being disbarred as aforesaid, all his rights and privileges as a Barrister-at-Law shall thenceforth cease and determine, and notice of his being disbarred shall forthwith be given by the Secretary of the Law Society to the High Court. 44 V. c. 17, s. 2.

Barrister's privileges to cease when he is disbarred.

46. Upon its being resolved by Convocation that a Solicitor is unworthy to practise, a copy of the resolution shall forthwith be communicated to the High Court, and thereupon, without any formal motion, an order of the said Court may be drawn up, striking such Solicitor off the rolls: Provided that such Solicitor may at any time afterwards apply to the said Court to be restored to practice, as heretofore. 44 V. c. 17, s. 3.

a Striking off the Rolls.

47. Any powers which the Visitors of the Law Society may have in the said matters of discipline, are hereby vested in the Benchers of the Law Society, and the powers by the preceding three sections of this Act given to the said Benchers may be exercised by them without reference to, or concurrence in, by the Visitors. 44 V. c. 17, s. 4.

Powers of visitors as to discipline vested in the Benchers.

LAW BENEVOLENT FUND.

48. The Benchers may by by-law establish a fund for the benefit of the widows and orphans of Barristers, and Solicitors, and of persons who have been such, to be called "The Law Benevolent fund," and may make all necessary rules and regulations for the management and investment of the said fund, and the terms of subscription and appropriation thereof, and the conditions under which the widows and orphans of such persons shall be entitled to share in the said fund. R. S. O. 1877, c. 138, s. 43.

Widow's and orphan's fund.

REPORTERS.

49.—(1) The Benchers may from time to time appoint such persons, being members of the Law Society, of the degree of Barrister-at-Law, as they may think proper, to be editors and reporters of the decisions of the Court of Appeal and the High Court.

Reporters to be appointed by the Benchers.

(2) Such persons shall hold office at the pleasure of the said Benchers, and shall be amenable to them in Convocation for the correct and faithful discharge of their respective duties, according to such regulations as the said Benchers may from time to time make in respect thereof. R. S. O. 1877, c. 138, s. 44.

Benchers to make regulations regarding the reports.

50. The Benchers shall make regulations for printing and publishing the reports of the said decisions, and the distribution of the reports, and the price and mode of issuing thereof, and all such other regulations in respect thereto, as they may at any time consider necessary; and any profits arising from the reports shall form part of the general funds of the Law Society. R. S. O. 1877, c. 138, s. 45.

Salaries of reporters.

51. The Benchers shall from time to time determine the salaries to be allowed to the editors and reporters, and shall pay the same out of the general funds of the Society. R. S. O. 1877, c. 138, s. 46.

REVENUE AND EXPENDITURE.

Appropriation of certain fees.

52. The fees payable by Barristers, as term fees, and on call to the Bar, and by Solicitors on admission as Solicitors, and for the annual certificate to practise, and by Students and articled Clerks on admission as such, and on examinations and attendance on lectures and readings, shall be paid into the general funds of the Law Society, and shall be such as the Law Society by rule from time to time prescribes. R. S. O. 1877, c. 138, s. 47. *See also* Cap. 147, s. 16 (4)

Benchers to furnish members with details of revenue, etc.

53. The Benchers shall, during Hilary Term in every year, furnish to every member of the Law Society entitled to vote at the election of Benchers, a statement in detail of the revenue and expenditure of the Law Society, for the year ending the thirty-first day of December preceding each statement, the same to be first duly audited by auditors appointed by said Benchers to audit and report upon the finances of the Law Society. R. S. O. 1877, c. 138, s. 48.

SCHEDULE.

(Section 9.)

FORM OF VOTING PAPER.

Law Society Election, 18 .

I, _____, of the _____ in the County of _____, Barrister-at-Law, do hereby declare—

1. That the signature affixed hereto is my proper handwriting.
2. That I vote for the following persons as Benchers of the Law Society:

A. B., of the _____	, in the County of _____
C. D., of the _____	, in the County of _____
E. F., of the _____	, in the County of _____
G. H., of the _____	, in the County of _____
I. J., of the _____	, in the County of _____
etc.	etc.

3. That I have signed no other voting paper at this election.

4. That this voting paper was executed on the day of the date thereof.

Witness my hand, this _____ day of _____, A. D. 18 .

R. S. O. 1877, c. 138, Sched.

CHAPTER 146.

An Act respecting Barristers-at-Law.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. Subject to any rules, regulations or by-laws made by the Benchers of the Law Society of Upper Canada under *The Act respecting the Law Society of Upper Canada*, the following persons, and no others, may be admitted to practise at the Bar in Her Majesty's Courts in Ontario: Who may be admitted to practise at the Bar. Rev. Stat. c. 145.

1. Any person of the age of twenty-one years, who, having been entered of and admitted into the "Law Society of Upper Canada" as a student of the laws, has been standing on the books thereof for five years, and has conformed himself to the rules of the Society; Students of five years' standing.

2. Any person who has been admitted into and stands on the books of the Law Society of Upper Canada, as a student of the laws for three years, and has conformed himself to the rules of said Society, and has, prior to the date of his admission to the said Society, and to the books of the said Society as a student, actually taken and had conferred upon him the degree of Bachelor of Arts or Bachelor of Law in any of the Universities of the United Kingdom of Great Britain and Ireland, or of any University or College in this Province or in the Province of Quebec, having power to grant degrees: R. S. O. 1877, c. 139, s. 1, (1, 2). Certain students may be admitted after three years' study.

3. Any person who has been duly called to the Bar of England, Scotland or Ireland (excluding the Bar of Courts of merely local jurisdiction)—when the Inn of Court or other authority having power to call or admit to the Bar by which such person was called or admitted, extends the same privilege to Barristers from Ontario—on producing sufficient evidence of such call or admission and testimonials of good character and conduct to the satisfaction of the Law Society. 48 V. c. 30, s. 1. Admission of English and other Barristers to the bar of Ontario.

4. Any person who has been duly authorized to practise as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Quebec, or who has been found capable and qualified, and entitled to receive a diploma for that purpose under the provisions of the Acts respecting the incorporation of the Bar of Quebec, or who has been duly registered as a clerk and studied during the periods for study respectively required under the provisions of the said Acts, on producing sufficient evidence thereof, and also on producing testimonials Admission of lawyers or students from Quebec to the Bar of Ontario.

of good character, and undergoing an examination in the law of Ontario, to the satisfaction of the Law Society of Upper Canada, and upon his entering himself of the said Society, and conforming to all the rules and regulations thereof;

Barristers of
other Pro-
vinces.

5. Any person who has been duly called to the Bar of any of Her Majesty's Superior Courts in any of Her Majesty's Provinces of North America in which the same privilege would be extended to Barristers from Ontario, and who produces sufficient evidence of such call and testimonials of good character and conduct to the satisfaction of the Law Society. R. S. O. 1877, c. 139, s. 1 (4, 5).

QUEEN'S COUNSEL.

Appointment
of Queen's
Counsel.

2. It was and is lawful for the Lieutenant-Governor by letters patent, under the Great Seal of the Province of Ontario, to appoint from among the members of the Bar of Ontario, such persons as he may deem right to be, during pleasure, Provincial officers under the names of Her Majesty's Counsel learned in the Law for the Province of Ontario. R. S. O. 1877, c. 139, s. 2.

Order of pre-
cedence at the
Bar.

3. The following members of the Bar of this Province shall have precedence in the Courts of this Province in the following order:

1 The Attorney-General of Canada for the time being;

2 The Attorney-General of Ontario, for the time being;

3 The members of the said Bar who have filled the offices of Attorney-General for the late Province of Upper Canada, or Attorney-General of the Dominion of Canada, or Attorney-General of this Province, according to seniority of appointment as such Attorney-General;

4 The members of the said Bar who have filled the office of Solicitor-General for Upper Canada according to seniority of appointment as such Solicitor-General; and

5 The members of the Bar who were, before the 1st day of July, in the year of our Lord 1867, appointed Her Majesty's Counsel for Upper Canada, so long as they are such Counsel, according to seniority of appointment as such Counsel. R. S. O. 1877, c. 139, s. 3.

Patents of
precedence.

4. The Lieutenant-Governor by letters patent under the Great Seal of Ontario may grant to any member of the Bar a patent of precedence in the said Courts. R. S. O. 1877, c. 139, s. 4.

Precedence be-
tween Queen's
Counsel and
members hold-
ing patents of
precedence.

5. Members of the Bar from time to time appointed after the 1st day of July, in the year of Our Lord 1867, to be Her Majesty's Counsel for the Province, and members of the Bar to whom, from time to time, patents of precedence are granted

shall severally have such precedence in the said Courts as may be assigned to them by letters patent, which may be issued by the Lieutenant-Governor under the Great Seal. R. S. O. 1877, c. 139, s. 5.

6. The remaining members of the Bar shall, as between themselves, have precedence in the said Courts in the order of their call to the Bar. R. S. O. 1877, c. 139, s. 6. Precedence of other members of the Bar.

7. Nothing in this Act contained shall in any wise affect or alter any rights of precedence which may appertain to any member of the Bar when acting as Counsel for Her Majesty, or for any Attorney-General of Her Majesty, in any matter depending in the name of Her Majesty or of the Attorney-General before the said Courts, but such right and precedence shall remain as if this Act had not been passed. R. S. O. 1877, c. 139, s. 7. Crown Counsel.

CHAPTER 147.

An Act respecting Solicitors.

ADMISSION AND ENROLMENT NECESSARY, s. 1.

WHO MAY BE ADMITTED, ss. 2-4.

SERVICE OF ARTICLED CLERKS, s. 5.

CONDITIONS OF ADMISSION, s. 6.

EXAMINATIONS, ss. 7-10.

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ANNUAL CERTIFICATES :—

Issue of, ss. 13-18.

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YEARLY LISTS OF PRACTISING SOLICITORS, s. 22.

OFFENCES AND PENALTIES :—

Solicitors in prison not to practise, s. 23.

Acting as agents of unqualified person, s. 24.

Default in paying over moneys collected, s. 25.

Practising without being admitted, s. 26.

Practising while holding certain offices, s. 27.

Not to practise while engaged in business, s. 28.

STRIKING OFF THE ROLL :—

Time for, limited in certain cases, s. 29.

Proceedings in case of, s. 30.

COSTS—TAXATION OF, ss. 31-48.

JUDGES MAY MAKE RULES, s. 49-52.

JURISDICTION OF COURTS NOT AFFECTED, s. 53.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

SOLICITORS TO BE ADMITTED AND ENROLLED.

1. Unless admitted and enrolled and duly qualified to act as Solicitors must a Solicitor, no person shall act as a Solicitor in any Court of be admitted and enrolled.

Civil or Criminal Jurisdiction or before any Justice of the Peace, or shall as such sue out any writ or process, or commence, carry on, solicit or defend any action, or proceeding in the name of any other person, or in his own name. R. S. O. 1877, c. 140, s. 1.

[See as to *Division Courts*, *Rev. Stat. c. 51, s. 120.*]

WHO MAY BE ADMITTED.

Solicitors and
attorneys.

2.—(1) All persons heretofore admitted as Solicitors or Attorneys of, or by law empowered to practise in, any Court the jurisdiction of which is now vested in the High Court shall be called Solicitors of the Supreme Court of Ontario, and shall be entitled to the same privileges, and be subject to the same obligations, so far as circumstances will permit, as they were entitled or subject to prior to the 22nd day of August, 1881.

44 V. c. 5.

(2) All persons who from time to time, if *The Ontario Judicature Act, 1881*, had not passed, would have been entitled to be admitted as Solicitors or Attorneys of, or been by law empowered to practise in, any such Courts, shall be entitled to be admitted on payment of the fees mentioned in section 12 and shall be so admitted by any Divisional Court, and shall be Solicitors of the Supreme Court of Ontario.

(3) Any Solicitors or Attorneys to whom this section applies shall be deemed to be officers of the Supreme Court; and that Court, and the High Court of Justice and the Court of Appeal respectively, or any Division or Judge thereof, may exercise the same jurisdiction in respect of such solicitors or attorneys as any one of the Superior Courts or a Judge thereof might, previously to the 22nd day of August, 1881, have exercised in respect of any solicitor or attorney admitted to practise therein. 44 V. c. 5, s. 74.

Who may be
admitted and
enrolled solic-
itors.
Rev. Stat.
c. 145.

3. Subject to the provisions hereinafter contained and to any rules and regulations made by the Benchers of the Law Society of Upper Canada, under *The Act respecting the Law Society of Upper Canada*, the following persons and no others, may be admitted and enrolled as Solicitors:—

Articled clerks
after five years
service.

1. Any person who has been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for five years;

Graduates of
Universities
after three
years' service.

2. Any person who has actually taken and had conferred upon him the degree of Bachelor or Master of Arts, or of Bachelor or Doctor of Laws, in any of the Universities of the United Kingdom of Great Britain and Ireland, or of this Province or the Province of Quebec having power to grant degrees, and has, after having taken and had conferred upon him such

degree, been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for three years ;

3. Any person who has been duly called to practise at the Bar of Ontario, or who has been duly called to practise at the Bar of any of Her Majesty's Superior Courts not having merely local jurisdiction in England, Scotland or Ireland, and has been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for three years ;

Barristers of Ontario or England, Scotland or Ireland after three years' service.

4. Any person duly and lawfully sworn, admitted and enrolled a Solicitor of Her Majesty's Supreme Court of Judicature in England or Ireland, or who has been Writer to the Signet or Solicitor in the Supreme Courts in Scotland, and has been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for one year ;

Solicitors of Courts of England, Scotland or Ireland after one year's service.

5. Any Attorney or Solicitor of any of Her Majesty's Superior Courts of Law or Equity in any of Her Majesty's Colonies wherein the Common Law of England is the Common Law of the land, and who has been bound by contract in writing to a practising Solicitor in Ontario, to serve and has served him as his clerk for one year. R. S. O. 1877, c. 140, s. 2.

Solicitors of Courts in Colonies after one year's service.

4. The High Court may in its discretion admit as Solicitors any persons who have been called to the degree of Barrister-at-Law under the provisions of sub-section 4 of section 1 of *The Act respecting Barristers-at-Law*, on their producing such evidence and testimonials, and undergoing an examination in the law of Ontario under the direction of the Law Society of Upper Canada to the satisfaction of the Court. R. S. O. 1877, c. 140, s. 3.

Barristers of Quebec who have been called to the Bar of Ontario. Rev. Stat. c. 146, s. 1 (4).

SERVICE OF ARTICLED CLERKS.

5. Subject to the powers of the Benchers of the Law Society of Upper Canada to make rules, regulations and by-laws, under *The Act respecting the Law Society of Upper Canada*, the following enactments are made with respect to the service of articulated clerks :—

Articled clerks. Rev. Stat. c. 145.

1. Whenever any person has been bound by contract, in writing, to serve as a clerk to a Solicitor, such contract with the affidavit of execution thereof annexed thereto, shall within three months next after the execution of the contract be filed with the Registrar of the Common Pleas Division of the High Court, who shall endorse and sign upon the contract and affidavit a memorandum of the day of filing thereof, and every assignment of such contract, together with an affidavit of the execution thereof annexed thereto, shall be filed in like manner

Articled clerks to procure affidavits of the admission of solicitor, to whom articulated and of execution of articles.

within the like period of three months next after the execution thereof. Every such affidavit shall state the date of the execution of the articles or assignment, as the case may be, by the parties thereto respectively.

Provision in case affidavit not filed in three months.

2. In case the contract or assignment (as the case may be) with the affidavit of execution annexed thereto, is not filed within three months after the date of the contract or assignment, the same may nevertheless be filed with either of the officers before mentioned, but the service of the clerk shall be reckoned only from the date of the filing, unless the Law Society in its discretion for special reasons in any particular case otherwise orders.

Practising solicitors may have four articulated clerks, and no more.

3. Every person authorized to practise as a Solicitor may have under contract in writing four clerks at one time, and no more; and no Solicitor shall have any clerk bound as aforesaid, after the Solicitor has discontinued practising as, or carrying on the business of, a Solicitor, nor whilst the Solicitor is employed as a writer or clerk by any other Solicitor; and the service by an articulated clerk to a Solicitor under any such circumstances, shall not be deemed good service under the articles.

Court may order articles to be discharged or assigned in certain cases.

4. In case any Solicitor, before the determination of the contract of a clerk bound to him as aforesaid, has become bankrupt, or taken the benefit of any Act for the relief of insolvent debtors, or having been imprisoned for debt has remained in prison for the space of twenty-one days, the High Court may, upon the application of the clerk, order the contract to be discharged or assigned to such person, upon such terms, and in such manner as the Court thinks fit.

Case of death of the solicitor to whom clerk articulated provided for.

5. If a Solicitor, to whom a clerk has been so bound, dies before the expiration of the term for which the clerk became bound, or if he discontinues practice as a Solicitor, or if the contract is by the consent of the parties cancelled, or in case the clerk is legally discharged before the expiration of the term by any rule or order of the Court, the clerk may be bound by another contract in writing, to serve as clerk to any other practising Solicitor during the residue of his said term: and in case an affidavit is duly made and filed of the execution of such last mentioned contract within the time and in the manner hereinbefore directed, and subject to the like regulations with respect to the original contract and the affidavit of its execution, due service under such second or subsequent contract shall be deemed sufficient. R. S. O. 1877, c. 140, s. 4.

CONDITIONS OF ADMISSION AS SOLICITOR.

Provisions to be complied with before admission.

6.—(1) Subject to the rules, regulations, and by-laws made by the Benchers of the Law Society of Upper Canada, under *The*

Act respecting the Law Society of Upper Canada, no person above mentioned shall be admitted and enrolled as a Solicitor unless : Rev. Stat. c. 145.

- (a) He has during the time specified in his contract of service duly served thereunder, and has during the whole of such term of service been actually employed in the proper practice or business of a Solicitor by the Solicitor to whom he has been bound at the place where such Solicitor has continued to reside, during such term or (with his consent) by the professional agent of the Solicitor in Toronto, for a part of the said term, not exceeding one year; nor unless
- (b) He has after the expiration of such term of service been examined and sworn in the manner hereinafter directed; nor unless
- (c.) He has, at least fourteen days next before the first day of the Term in which he seeks admission, left with the Secretary of the Law Society his contract of service, and any assignment thereof and affidavits of the execution of the same respectively, and his own affidavit of due service thereunder, and a certificate of the Solicitor to whom he was bound, or his agent as aforesaid, of such due service, and (in the case of a person who has been called to the Bar or taken a degree as hereinbefore mentioned), a certificate of his having been so called to the Bar or taken such degree or a duly authenticated certified copy of such certificate.

(2) The affidavits shall be in the form approved of by the Visitors of the Law Society, and shall by the applicant be delivered to the Law Society upon his application to be examined. Form of affidavit to be delivered to the Society.

(3) In case the contract of service, assignment (if any) affidavits and certificate of due service, or any of them, cannot be produced, then, on application to be made to the Law Society, by a petition verified by affidavit, to be left with the Secretary of the Society, at least fourteen days next before the first day of the Term on which the applicant seeks admission, the Society on being satisfied of such fact may, in its discretion, dispense with the production of such contract, assignment affidavits and certificate of due service, or any of them, and may, notwithstanding such non-production, grant the certificates provided for in section 10 of this Act. Provision in case the contract, etc., cannot be produced.

(4) The Benchers of the Law Society may allow any clerk under articles to a practising Solicitor, as part of his term of service, all and every period of time that such clerk may have been employed in the Militia Service when the Militia are called out for actual service. Time of clerk on militia service may be allowed.

Oath to be taken by candidates for admission.

(5) No candidate shall be admitted unless he makes and subscribes the oath or affirmation following :

“I, *A. B.*, do swear (or solemnly affirm as the case may be) that I will truly and honestly demean myself in the practice of a Solicitor according to the best of my knowledge and ability ; So help me God.”

R. S. O. 1877, c. 140, s. 5.

EXAMINATIONS.

Examinations of articled clerk.

Rev. Stat. c. 145.

7. Subject to any rules, regulations, and by-laws made by the Benchers of the Law Society of Upper Canada, under *The Act respecting the Law Society of Upper Canada*, the following enactments are made with respect to the examination of articled clerks and candidates for admission as Solicitors :

Preliminary examination for articled clerks.

1. The Benchers of the Law Society of Upper Canada may by regulation require that articled clerks shall pass a preliminary examination ; and the term of service under articles to entitle each articled clerk to be admitted as a Solicitor shall date only from the passing of such examination.

Persons mentioned in sub-sections 1 and 2 of sec. 2 of this Act to pass two examinations.

2. Notwithstanding anything in this Act contained, no persons being of either of the classes of persons mentioned in sub-sections 1 and 2 of section 2 of this Act shall be admitted or enrolled as a Solicitor, unless he has at some time during the year next but two before the time of his final examination, and at some time not less than one year thereafter and during the year next but one before the time of his final examination, passed examinations to the satisfaction of the said Benchers.

Provision in case of illness or inability from unavoidable causes.

3. In case any person is prevented by illness or other unavoidable cause, from presenting himself for, or fails to pass either of the examinations by this section required, within the time specified, the Benchers may, in their discretion, permit such person to pass such examination at other times ; but not less than nine months shall elapse between the first and the second of such examinations, and not less than nine months shall elapse between the second of such examinations and the final examination. R. S. O. 1877, c. 140, s. 6.

Provisions respecting candidates of the classes in sub-sections 3, 4, and 5 of section 2 *supra*.

8. Subject to the rules and regulations of the Law Society of Upper Canada, as aforesaid, no candidate for admission being of the class of persons respectively mentioned in sub-sections 3, 4 and 5 of section 2 of this Act, shall be admitted unless,

1. He publishes in the *Ontario Gazette*, at least two months previously, notice of his intention to apply for admission.

2. Nor (except in the case of a person called to the Bar of Ontario), unless such candidate, at least fourteen days before the first day of such Term, leaves with the Secretary of the Law Society :

(a) In the case of a Barrister not being a Barrister of Ontario—a certificate under the seal of the Society, or Inn of Court in England, Scotland or Ireland, of which he is a member, duly attested under the proper hand of the proper officer thereof, that he has been duly called to the Bar, and was at the date of such certificate on the books of such Society or Inn of Court; and also an affidavit of the applicant to the satisfaction of the Benchers of the Law Society, that since his admission to the Bar, no application to any Society or Inn of Court has been made against such person to disbar him or otherwise to disqualify him from further practice for misconduct in such his capacity of Barrister;

(b) And in the case of an Attorney or Solicitor,—a certificate under the seal of the proper Court or Courts, duly attested under the hand of the proper officer thereof, that he was duly admitted and enrolled as such Attorney or Solicitor, and was at the date of such certificate on the Roll of Attorneys or Solicitors of such Court or Courts; and also, an affidavit of the applicant, that since his admission as aforesaid no application to any such Court or Courts (as the case may be) has been made against such person to strike him off the Roll of any such Court, or otherwise to disqualify him in the capacity of Attorney or Solicitor;

(3) The certificates respectively shall bear date within three months of the first day of the Term during which the application is made. R. S. O. 1877, c. 140, s. 7.

9. The Benchers of the Law Society of Upper Canada with the approbation of the Visitors shall from time to time make such rules as they consider necessary for conducting the examination of persons applying to be admitted as Solicitors, as well touching the articles and service, and the several certificates required by law to be produced by them before their admission, as touching the fitness and capacity of such persons to act as Solicitors; and the Society may from time to time nominate and appoint examiners for conducting such examinations. R. S. O. 1877, c. 140, s. 8. *See also* Cap. 145, s. 41.

10. The Benchers of the Law Society, upon proof to their satisfaction of the requisites of this Act having been complied with, shall examine and enquire by such ways and means as they think proper, touching the fitness and capacity of any applicant for admission to act as a Solicitor; and if satisfied by such examination, or by the certificate of the examiners mentioned in section 9 of this Act, that such person is duly qualified, fit, and competent to act as a Solicitor, the Society shall give a certificate under the corporate seal of the said

The Law Society to make rules for the examination of candidates.

The Law Society to examine into the fitness and capacity of candidates for admission as solicitors.

Society of the due service under contract in writing, of such person, and of his fitness and capacity, and of his having duly complied with the requirements of this Act, and that he is in all respects duly qualified to be admitted as a Solicitor. R. S. O. 1877, c. 140, s. 9.

Admission.

11. Upon production to one of the Judges of the High Court annexed to such certificate of the original contract of service and any assignments thereof, and the affidavits of due service thereunder, and all other certificates hereinbefore required, such Judge shall endorse his fiat of admission upon the certificate of the Law Society: and thereupon the High Court may, in addition to the oath of allegiance, administer to such person in open Court the oath hereinbefore directed to be taken by Solicitors, and after such oaths taken may cause him to be admitted and his name to be enrolled as a Solicitor, which admission shall be signed by the Registrar of one of the Divisions of the High Court, and the documents upon which the admission has been obtained shall be filed and retained of record in the office of the Court. R. S. O. 1877, c. 140, s. 10.

FEES.

Fees payable
under this
Act.
Rev. Stat.
c. 22.

12. The following fees, and no other, shall be payable to the Registrar for the Crown in stamps under this Act, subject to the provisions of *The Act respecting Law Stamps*, that is to say:—

1. On filing Articles and Assignments (if any) and every affidavit of execution of such Articles, and making the endorsement required by this Act \$0 50
2. For fiat, admission, oath and certificate..... 5 50

R. S. O. 1877, c. 140, s. 12. *See the Tariff.*

ANNUAL CERTIFICATES.

Names of those
admitted to be
delivered to
Secretary
annually.

13. The Registrar of one of the Divisions of the High Court, shall annually, during the Vacation after Trinity Term, deliver to the Secretary or at his office in Osgoode Hall, certified under his hand and the seal of the said High Court a copy of so much of the Roll as contains the names of solicitors admitted to practice subsequently to the last return made to the said Secretary. R. S. O. 1877, c. 140, s. 13.

Secretary to
enter certified
copies of Roll
in a book.

14. The Secretary shall enter all such certified copies in a book to be kept in his office for that purpose, affixing to each name a number following in consecutive order the numbers affixed to the names previously entered. R. S. O. 1877, c. 140, s. 14.

15. The Secretary shall, in another book to be kept in his office for that purpose, enter all the names contained in the copies so transmitted to him, alphabetically arranged, with a reference to the number of each name on the Roll; and shall, annually on or before the first day of February, put up in his office and also in the office of each of the Registrars of the High Court an alphabetical list certified by him, under his hand, of all Solicitors who have taken out their certificates for the current year, and shall from time to time add to the list put up in his own office the name of each Solicitor who takes out a certificate at a subsequent period of the year, noting thereon the time when the certificate was taken out. R. S. O. 1877 c. 140, s. 15.

Secretary to enter on the Roll and annually post in the office of each Registrar an alphabetical list of Solicitors.

16.—(1) Every practising Solicitor shall obtain from the Secretary of the Law Society, annually, before the last day of Michaelmas Term, a certificate under the seal of the said Society stating that he is a practising Solicitor in the High Court.

Annual certificate to be obtained by Solicitors.

(2) Such certificates shall be issued by the secretary of the Law Society, under the seal of the Society, according to the list of names appearing in the copy of the roll of Solicitors certified to the said Secretary under section 13 of this Act.

(3) Upon the payment of all fees and dues payable by such Solicitor to the said Society, the Secretary shall write his name on the margin of the certificate, with the date thereof, and the certificate shall be taken as issued only from such date.

(4) The Law Society shall determine what fees shall be payable for certificates. R. S. O. 1877, c. 140, s. 16.

17. No certificate shall be issued to any Solicitor, who is indebted to the Society, for any Term or other fee payable to the Society, nor until the annual fee for each certificate prescribed by the rules of the Society is paid. R. S. O. 1877, c. 140, s. 17.

Fees to be paid before certificate granted.

18. No Solicitor, admitted as aforesaid, need take out any such certificate until the Michaelmas Term next following his admission. R. S. O. 1877, c. 140, s. 18.

Certificate need not be taken out till Michaelmas Term after admission.

19.—(1) If a Solicitor omits to take out such annual certificate in Michaelmas Term, he shall not be entitled thereto until he pays to the Law Society not only the certificate fee, so appointed as aforesaid, together with any other fees or dues which he owes to the Society, but also an additional sum by way of penalty, as follows:

Fine for neglect to take out certificate.

(2) If such certificate is not taken out before the first day of Hilary Term, the further sum of \$6: if not before the

Amount of fine.

first day of Easter Term, the further sum of \$9; and, if not before the first day of Trinity Term, the further sum of \$12. R. S. O. 1877, c. 140, s. 19.

Solicitors,
etc., practising
without
certificate to
forfeit \$40.

20. If a Solicitor, or any member of a firm of Solicitors, either in his own name or in the name of any member of his firm, practises in the High Court, without such certificate being taken out by him, and by each member of his firm, he shall forfeit the sum of \$40, which forfeiture shall be paid to the Law Society for the uses thereof, and may be recovered in the High Court. R. S. O. 1877, c. 140, s. 20.

Penalty for
practising
without a cer-
tificate.

21. If a Solicitor practises in the High Court or in a County Court without such certificate in each and any year of his practice he shall be liable to be suspended by order of the High Court from practice for such offence, for a period of not less than three nor more than six months, and to continue so suspended until the fee upon his certificate for the year in which he so practised without certificate, is, together with a penalty of \$40, paid to the Law Society. R. S. O. 1877, c. 140, s. 21.†

Registrars,
etc., at
beginning of
year, to
make out list
of solicitors,
who have
practised dur-
ing the pre-
ceding year.

22.—(1) Each of the Registrars of the High Court and each Deputy Clerk of the Crown and Pleas, and each Deputy Registrar, when the said offices are not held by the same person, shall, at the commencement of each year, make out a list of the names of every Solicitor who by the papers or proceedings filed or had in their respective offices appears to have practised as such Solicitor at any time during the preceding year ending with the thirty-first day of December.

And deliver
the same to
the Secretary.

(2) Each of the said officers shall, on or before the first day of Hilary Term in the year next to that for which they are made up, deliver or hand such lists to the Secretary at Osgoode Hall, certified under their respective hands and seals. R. S. O. 1877, c. 140, ss. 22, 23.

Solicitors in
prison not to
practise.

23. In case a Solicitor is a prisoner in any gaol or prison he shall not during his confinement therein, or within the limits thereof, commence, prosecute or defend as such Solicitor any action in any Court, nor act in any matter in bankruptcy or insolvency; and any Solicitor so practising, and any Solicitor permitting or empowering him so to practise in his name, shall be guilty of a contempt of the Court in which any such proceedings take place, and (upon the application of any person complaining thereof) shall be punishable by such Court accordingly; and such Solicitor shall be incapable of maintaining any action for the recovery of any fee, reward or disbursement for or in respect of any matter or

thing done by him, whilst a prisoner as aforesaid, in his own name or in the name of any other Solicitor. R. S. O. 1877, c. 140, s. 24.

24. In case a Solicitor wilfully and knowingly acts as the professional agent of any person not duly qualified to act as a Solicitor, or suffers his name to be used in any such agency on account of or for the profit of an unqualified person, or sends any process to such person, or does any other act to enable such person to practise in any respect as a Solicitor, knowing him not to be duly qualified, and in case complaint is made thereof in a summary way to the High Court, and proof is made upon oath to the satisfaction of the Court, the Solicitor so offending may, in the discretion of the Court, be struck off the Roll and disabled from practising as such Solicitor; and the Court may also commit such unqualified person so having practised as aforesaid to any common gaol or prison for any term not exceeding one year. R. S. O. 1877, c. 140, s. 25.

Solicitors not to act as agents of unqualified persons.

25. The High Court may strike the name of any Solicitor off the Roll of Solicitors of the Court, for default by him in payment of moneys received by him as a Solicitor. R. S. O. 1877, c. 140, s. 26.

Court may strike Solicitors off the Roll.

26. In case any person, unless himself a plaintiff or defendant in the proceeding, commences, prosecutes or defends in his own name, or that of any other person, any action or proceeding without being admitted and enrolled as aforesaid, he shall be incapable of recovering any fee, reward or disbursements on account thereof; and such offence shall be a contempt of the Court in which such proceeding has been commenced, carried on or defended, and punishable accordingly. R. S. O. 1877, c. 140, s. 27.

Penalty on Solicitors practising without being admitted.

27. No Solicitor shall practise in any Court in Ontario, either in his own name or by his partner, deputy or agent, or in the name of any other person, or otherwise, directly or indirectly, while he holds, possesses, practises, carries on or conducts any of the offices of Registrar of the Court of Appeal, Registrar of any Division of the High Court, Deputy Clerk of the Crown and Pleas, Clerk of a County Court, or Clerk of a Division Court, and every such person so practising, shall be subject to the forfeiture of such office, and shall, in addition thereto, be subject to a penalty of \$2,000 to be recovered in an action in the High Court, to the use of Her Majesty; but nothing herein contained shall extend to any Local Master or Deputy Registrar of the High Court, who is not a Deputy Clerk of the Crown and Pleas. R. S. O. 1877, c. 140, s. 28.

Practice prohibited while holding certain offices.

No solicitor to practise while engaged as a merchant.

28. No Solicitor shall practise in any of the Courts of Ontario during the time he is engaged in the business of a merchant, or connected by partnership, public or private, in purchasing or vending merchandise in the way of trade as a merchant, nor until twelve months after he has ceased to be such merchant or to be so engaged, or to be connected as aforesaid. R. S. O. 1877, c. 140, s. 29.

TIME LIMITED FOR STRIKING A SOLICITOR OFF THE ROLL.

Except in cases of fraud, solicitors not to be struck off Roll for defect in articles, unless application made in 12 months from admission.

29. Except in case of fraud, no person admitted and enrolled shall be struck off the Roll on account of any defect in the articles of clerkship, or in the registry thereof, or in his service thereunder, or in his admission and enrolment, unless application for striking him off the Roll is made within twelve months next after his admission and enrolment. R. S. O. 1877, c. 140, s. 30.

PROCEEDINGS IF STRUCK OFF THE ROLL.

When solicitor struck off Roll, Registrar to certify same to Secretary of the Society.

30. Where a Solicitor is struck off the Roll of the High Court, the Registrar of the Division of the High Court in which the order is made shall certify the same under his hand and the seal of the Court to the Secretary of the Law Society, stating whether such Solicitor was struck off at his own request or otherwise, and the Secretary shall attach the certificate to the certified copy of the Roll on which the name of such person stands, and shall, in the book to be kept by him as aforesaid, make a note opposite the name of such person of his having been struck off such Roll. R. S. O. 1877, c. 140, s. 31.

SOLICITOR'S COSTS.

Solicitors to deliver their bill one month before bringing action for costs.

31. No action shall be brought for the recovery of fees, charges or disbursements, for business done by a Solicitor as such, until one month after a bill thereof, subscribed with the proper hand of such Solicitor, his executor, administrator or assignee (or, in the case of a partnership, by one of the partners, either with his own name, or with the name or style of such partnership), has been delivered to the party to be charged therewith, or sent by the post to, or left for him at his counting-house; office of business, dwelling-house, or last known place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill. R. S. O. 1877, c. 140, s. 32.

Taxation of costs.

32. Upon the application of the party chargeable by such bill within the month the High Court or a Judge thereof, or a Judge of a County Court shall, without money being brought into Court, refer the bill and the demand thereon to be taxed by the proper officer of any of the Courts in the County in which any of the business charged for in the bill

was done, and the Court or Judge making such reference shall restrain the bringing any action for such demand pending the reference. R. S. O. 1877, c. 140, s. 33.

33. In case no application is made within the month, then the Court or Judge upon the application of either party may order a reference with such directions and conditions as he may deem proper; and may upon such terms as may be thought just restrain any action for such demand pending the reference. R. S. O. 1877, c. 140, s. 34.

34. No such reference shall be directed upon application made by the party chargeable with such bill after a verdict has been obtained or a writ of inquiry executed, or after twelve months from the time such bill was delivered, sent or left as aforesaid, except under special circumstances, to be proved to the satisfaction of the Court or Judge to whom the application for the reference is made. R. S. O. 1877, c. 140, s. 35.

35. In case either party to such reference, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the bill *ex parte*; and in case the reference is made upon the application of either party and the party chargeable with the bill attends the taxation, the costs of the reference shall be paid according to the event of the taxation, except that if a sixth part is taxed off, the costs shall be paid by the party by whom or on whose behalf such bill was delivered; and if less than a sixth part is taxed off, then by the party chargeable with such bill, if he applied for or attended the taxation. R. S. O. 1877, c. 140, s. 36.

36. Every order for such reference shall direct the officer to whom the reference is made, to tax the costs of the reference, and to certify what, upon the reference, he finds to be due to or from either party in respect of such bill and of the costs of the reference, if payable. R. S. O. 1877, c. 140, s. 37.

37. Such officer may certify specially any circumstances relating to the bill or taxation, and the Court or Judge may thereupon make such order as may be deemed right respecting the payment of the costs of the taxation. R. S. O. 1877, c. 140, s. 38.

38. In case the reference is made when the same is not authorized except under special circumstances, as hereinbefore provided, the Court or Judge, in making the same, may give any special directions relative to the costs of the reference. R. S. O. 1877, c. 140, s. 39.

39. Where no bill has been delivered, sent or left as aforesaid, and where the bill if delivered, sent or left, might have been referred as aforesaid, any such Court or Judge may order the delivery of a bill, and may also order the delivery up of

Court or Judge may order bill to be referred on application of either party.

No reference to be made on application of party chargeable after verdict or after 12 months from delivery of bill.

If parties refuse to attend officer may tax bill *ex parte*.

Costs of taxation; how payable.

Order to direct officer to tax costs of reference and to certify what he finds due on taxation.

Officer may make special certificate. Costs on taxation in such case.

Special directions relative to costs of reference may be given.

Where no bill delivered, Court or Judge may order delivery of bill and of papers.

deeds or papers in the possession, custody or power of the Solicitor, his assignee or representatives, in the same manner as has heretofore been done in cases where any such business had been transacted in the Court in which such order was made. R. S. O. 1877, c. 140, s. 40.

Not necessary in first instance in action on bill to prove contents of bill delivered.

40. In proving a compliance with this Act it shall not be necessary in the first instance to prove the contents of the bill delivered, sent or left, but it shall be sufficient to prove that a bill of fees, charges or disbursements subscribed in the manner aforesaid, or enclosed in or accompanied by such letter as aforesaid, was delivered, sent or left in manner aforesaid; but the other party may shew that the bill so delivered, sent or left, was not such a bill as constituted a *bona fide* compliance with this Act. R. S. O. 1877, c. 140, s. 41.

Judge may allow actions for costs within the month if departure from Ontario apprehended.

41. A Judge of the High Court or a County Judge, on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to quit Ontario, may authorize a Solicitor to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of a bill as aforesaid. R. S. O. 1877, c. 140, s. 42.

Where a party not being the principal pays a bill of costs, a taxation may be allowed afterwards.

42. Where any person not being chargeable as the principal party is liable to pay or has paid any bill either to the Solicitor, his assignee, or representative, or to the principal party entitled thereto, the person so paying, his assignee or representative, may make the like application for a reference thereof to taxation as the party chargeable therewith might himself have made, and in like manner, and the same proceedings shall be had thereupon, as if the application had been made by the party so chargeable. R. S. O. 1877, c. 140, s. 43.

When special circumstances may be considered.

43. In case such application is made when, under the provisions hereinbefore contained, a reference is not authorized to be made except under special circumstances, the Court or Judge to whom the application is made, may take into consideration any additional special circumstances applicable to the person making it, although such circumstances might not be applicable to the party chargeable with the bill, if he was the party making the application. R. S. O. 1877, c. 140, s. 44.

Court or Judge may order the delivery of a copy of the bill.

44. For the purpose of such reference upon the application of the person not being the party chargeable, or of a party interested as aforesaid, the Court or Judge may order the Solicitor, his assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy. R. S. O. 1877, c. 140, s. 45.

45. No bill previously taxed shall be again referred, unless under the special circumstances of the case the Court or Judge to whom the application is made thinks fit to direct a re-taxation thereof. R. S. O. 1877, c. 140, s. 46.

When a bill taxed may be re-taxed.

46. The payment of any such bill as aforesaid shall in no case preclude the Court or Judge to whom application is made from referring such bill for taxation, if the application is made within twelve months after payment, and if the special circumstances of the case in the opinion of the Court or Judge appear to require the same, upon such terms and subject to such directions as to the Court or Judge seem right. R. S. O. 1877, c. 140, s. 47.

Payment not to preclude taxation if applied for within a year.

47. In all cases in which a bill is referred to be taxed, the officer to whom the reference is made, may request the proper officer of any other Court, to assist him in taxing any part of such bill, and the officer, so requested, shall thereupon tax the same, and shall have the same powers, and may receive the same fees in respect thereof, as upon a reference to him by the Court of which he is an officer, and he shall return the bill, with his opinion thereon, to the officer who so requests him to tax the same. R. S. O. 1877, c. 140, s. 48.

A taxing officer may require the assistance of the officer of any other Court.

48. All applications made to refer any bill to be taxed, or for the delivery of a bill, or for the delivering up of deeds, documents and papers, shall be made *In the matter of (such Solicitor)*; and upon the taxation of any such bill, the certificate of the officer by whom the bill is taxed shall, unless set aside or altered by order of a Judge, or by decree or order of Court, be final and conclusive as to the amount thereof, and payment of the amount certified to be due and directed to be paid may be enforced according to the practice of the Court in which the reference has been made. R. S. O. 1877, c. 140, s. 49.

How applications against solicitors to be entitled.

JUDGES MAY MAKE RULES.

49. The Judges of the Supreme Court may, from time to time in accordance with the provisions of *The Jurisdiction Act*, make such General Rules or Regulations, other than the Rules or Regulations hereinbefore referred to, as to them seem necessary and meet for carrying out the provisions of this Act. R. S. O. 1877, c. 140, s. 50.

Judges of Supreme Court to make rules, etc. Rev. Stat. c. 44.

50.—(1) Any such general rule may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or per-centage, varying or not in different classes of business; or by a gross sum; or by a fixed sum for each document prepared or perused, without regard to length; or in any other mode, or partly in one mode and partly in another, or others; and may, as regards the amount of the remuneration,

Principles of remuneration. Imp Act. 44 & 45 V. c. 44, s. 4.

regulate the same with reference to all or any of the following among other considerations; namely:—the position of the party for whom the Solicitor is concerned in any business, that is, whether as vendor or as purchaser, lessor or lessee, mortgagor or mortgagee, and the like; the place, district, and circumstances at or in which the business or part thereof is transacted; the amount of the capital money or of the rent to which the business relates; the skill, labour and responsibility involved therein on the part of the Solicitor; the number and importance of the documents prepared or perused, without regard to length; and the average or ordinary remuneration obtained by Solicitors in like business at the passing of this Act.

Effect of order
as to taxation.

(2) As long as such general rule is in operation, the taxation of bills of costs of Solicitors shall be regulated thereby.
49 V. c. 20, s. 22.

Power for
solicitor and
client to agree
on form and
amount of
remuneration.

Imp. Act,
44 & 45 V. c.
44, s. 8.

51.—(1) With respect to any business to which the preceding section relates, whether any general rule under this Act is in operation or not, it shall be competent (subject to the provisions hereinafter mentioned) for a Solicitor to make an agreement with his client, and for a client to make an agreement with his Solicitor, before or after or in the course of the transaction of such business, for the remuneration of the Solicitor, to such amount and in such manner as the Solicitor and the client think fit, either by a gross sum, or by commission or per-centage, or by salary, or otherwise; and it shall be competent for the Solicitor to accept from the client, and for the client to give to the Solicitor, remuneration accordingly.

(2) The agreement shall be in writing, signed by the person to be bound thereby or by his agent in that behalf.

(3) The agreement may, if the Solicitor and the client think fit, be made on the terms that the amount of the remuneration therein stipulated for either shall include or shall not include all or any disbursements made by the Solicitor in respect of searches, plans, travelling fees, or other matters.

Unfair or
unreasonable
agreement not
to bind the
client.

(4) The agreement may be sued and recovered on, or impeached and set aside, in the like manner and on the like grounds as an agreement not relating to the remuneration of a Solicitor; and if, under any order for taxation of costs, such agreement being relied upon by the Solicitor shall be objected to by the client as unfair and unreasonable, the taxing master or officer of the Court may inquire into the facts, and certify the same to the Court; and if, upon such certificate, it shall appear to the Court or Judge that just cause has been shewn either for cancelling the agreement, or for reducing the amount payable under the same, the Court or Judge shall have power to order such cancellation or reduction, and to give all such directions

necessary or proper for the purpose of carrying the order into effect, or otherwise consequential thereon, as to the Court or Judge may seem fit.

(5) "Client," for the purposes of this section, includes any person who, as a principal, or on behalf of another or as trustee or executor or in any other capacity, has power, express or implied, to retain or employ, and retains or employs, or is about to retain or employ, a Solicitor, and any person for the time being liable to pay to a Solicitor for his services any costs, remuneration, charges, expenses, or disbursements. ^{Imp. Act, 44 & 45 V. c. 44, s. 1.} 49 V. c. 20, s. 23.

52. In the absence of any general rule and so far as any such general rules do not apply the taxing officer in taxing any bill for preparing and executing any deed under Chapters 105, 106 and 107, of these Revised Statutes, in estimating the proper sum to be charged therefor, shall consider not the length of such deed, but the skill and labour employed and responsibility incurred in the preparation thereof. R. S. O. 1877, c. 102, s. 5.

PRESENT PRACTICE AS TO ADMISSIONS NOT ALTERED.

53. Nothing in this Act contained shall interfere with the present practice as to the admission of Solicitors, nor with the jurisdiction over them as officers of Court. ^{Act not to affect practice as to admission.} R. S. O. 1877, c. 140, s. 51.

6. *MEDICAL PROFESSION.*

CHAP. 148.—MEDICINE AND SURGERY, p. 1360.

“ 149.—ANATOMY, p. 1377.

“ 150.—DENTISTRY, p. 1380.

“ 151.—PHARMACY, p. 1386.

CHAPTER 148.

An Act respecting the Profession of Medicine and Surgery.

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Short title.

1. This Act may be cited as “*The Ontario Medical Act.*”
R. S. O. 1877, c. 142, s. 1.

2. The medical profession of Ontario heretofore incorporated under the name and style of "The College of Physicians and Surgeons of Ontario," shall be and shall be deemed to have been from the date of its first establishment a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of chattel property and real estate for the purposes of this Act, and to sue and be sued in the manner usual with such corporations. R. S. O. 1877, c. 142, s. 2.

3. Every person registered according to the provisions of the Act passed in the twenty-ninth year of the reign of Her Majesty, and chaptered 34, of the Act passed in the thirty-second year of the reign of Her said Majesty, and chaptered 45, of the Act passed in the thirty-seventh year of the reign of Her said Majesty and chaptered 30, of chapter 142 of the Revised Statutes of Ontario, 1877, and of the Acts amending the same, shall be a member of the said College of Physicians and Surgeons of Ontario. R. S. O. 1877, c. 142, s. 3.

4. Every person hereafter registered under the provisions of this Act shall also be a member of the said College. R. S. O. 1877, c. 142, s. 4.

5. There shall be a council of the said College of Physicians and Surgeons of Ontario to be appointed in the manner herein after provided for in this Act, and hereinafter referred to as "The Council." R. S. O. 1877, c. 142, s. 5.

6. The council shall be composed of the following persons:—

Firstly. One member to be chosen from each of the Universities, Colleges and bodies hereinafter designated, to wit: The University of Toronto, the Queen's University and College of Kingston, the University of Victoria College, the University of Trinity College, the Royal College of Physicians and Surgeons, Kingston, the Toronto School of Medicine, Trinity Medical School, the Ottawa University, Regiopolis College, the Western University, and of every other University, College or body in the Province now by law authorized, or which may be hereafter authorized to grant degrees in medicine and surgery, and which establishes and maintains to the satisfaction of the College of Physicians and Surgeons of Ontario, a Medical Faculty in connection therewith.

2. No teacher, professor or lecturer of any of the before-mentioned Colleges or bodies shall hold a seat in the council except as a representative of the College or body to which he belongs:

3. All members of the council, representing the Colleges or bodies aforesaid, shall be practitioners duly registered under this Act or the Acts mentioned in section 3 of this Act.

Representatives of
Homœopathy.

Secondly. Five members to be duly elected by the licensed practitioners in homœopathy who have been registered under this Act, or under the provisions in that behalf of any of the Acts mentioned in section 3 of this Act;

Elected members.

Thirdly. Twelve members to be elected in the manner hereinafter provided from amongst and by the registered members of the profession other than those mentioned in the preceding sub-sections of this section.

Elections, how to be conducted.

2. The twelve members to be elected as aforesaid shall be residents of the several territorial divisions for which they are elected; and one member shall be so elected from each of the territorial divisions mentioned in Schedule A to this Act by the registered practitioners of medicine resident in such division; and the manner of holding such election shall, with respect to the time thereof and the taking the votes therefor, be determined by a by-law to be passed by the council; and in default of such by-law being made, then the Lieutenant-Governor shall prescribe the time and manner of holding such election. R. S. O. 1877, c. 142, s. 6; 50 V. c. 24, s. 1.

Membership for five years.

7.—(1) The members of the council shall be elected or appointed as the case may be, for a period of five years; but any member may resign his appointment at any time by letter addressed to the president or registrar of the council; and upon the death or resignation of any member of the council, it shall be the duty of the registrar forthwith to notify the College or body wherein the vacancy has occurred, of the death or resignation; and such College or body shall have the power to nominate another duly qualified person to fill the vacancy; or if the vacancy be caused by the death or resignation of any member elected from a territorial division, the registrar shall forthwith cause a new election to be held in such territorial division in such manner as may be provided for by by-law of the council; and the election shall be conducted in accordance with the by-laws and regulations of the council, but it shall be lawful for the council during such vacancy to exercise the powers hereinafter mentioned.

Vacancies in Homœopathic members of the Council.

(2) In the event of the death or resignation of any member of the council representing the practitioners of the homœopathic system of medicine, it shall be lawful for the remaining representatives of the homœopathic system in the council to fill such vacancy by selecting from amongst the duly registered practitioners in homœopathy a person to fill the said vacancy. R. S. O. 1877, c. 142, s. 7.

Persons entitled to vote.

8. The persons entitled to vote under this Act at any election shall be all duly registered practitioners. R. S. O. 1877, c. 142, s. 8.

Transfer to different voters' list.

9.—(1) Any member of the College of Physicians and Surgeons of Ontario, may have his name transferred from one class of voters

to any other class on his presenting to the registrar a certificate duly signed by the member or members of the Board of Examiners appointed by the council to examine candidates on the subjects specified in this Act, as peculiar to each School of Medicine, testifying that the member so applying to have his name so transferred has shewn a sufficient knowledge of the system of medicine he desires to connect himself with, to entitle him to be admitted to the class he desires, and being so admitted he shall be entitled to vote in that class only.

(2) No member shall be entitled to return to the class from which he has been so transferred without the sanction of the council; but no member shall at any time be entitled to vote in more than one class of the voters who, in accordance with the provisions of this Act, vote in the election of the members of the council; and there shall be payable to the registrar for such transfer the same charge as is usual for the registration of an additional qualification, namely \$2. R. S. O. 1877, c. 142, s. 9.

10. In case of any doubt or dispute as to the legality of the election of any member of the council, it shall be lawful for the council to hold an inquiry and decide who is the legally elected member of the council; and the person whom they decide to have been elected shall be and be deemed to be the member legally elected; and if the election is found to have been illegal the council shall have power to order a new election. R. S. O. 1877, c. 142, s. 10. Disputed elections, how dealt with.

11.—(1) The council may make such rules and regulations as to the times and places of meetings of the council, and the mode of summoning the same, as to the council seems expedient; which rules and regulations shall remain in force till altered at any subsequent meeting; and in the absence of any rule or regulation as to the summoning of meetings of the council it shall be lawful for the president thereof or, in the event of his absence or death, for the registrar to summon the same at such time and place as to him seems fit, by circular letter to be mailed to each member. Meetings of the Council.

(2) In the event of the absence of the president from any meeting, the vice-president or, in his absence, some other member to be chosen from among the members present shall act as president. Absence of President.

(3) All the acts of the council shall be decided by the majority of the members present, not being less than nine in number. Majority.

(4) At all meetings the president for the time being shall have a casting vote. R. S. O. 1877, c. 142, s. 11. Voting.

12. There shall be paid to the members of the council such fees for attendance, and such reasonable travelling expenses, as may from time to time be fixed by by-law passed by the said council. R. S. O. 1877, c. 142, s. 12. Payment to members of the Council.

Appointment
of officers.

Salaries.

Executive
Committee.

13. The council shall annually appoint a president, vice-president, registrar, treasurer, and such other officers as may from time to time be necessary for the working of this Act, who shall hold office during the pleasure of the council; and the said council shall have power to fix by by-law, or from time to time, the salaries or fees to be paid to such officers, and to the Board of Examiners hereinafter appointed. R. S. O. 1877, c. 142, s. 13.

14. The council shall appoint annually from among its members an "Executive Committee," to take cognizance of and action upon all such matters as may be delegated to it by the council or as may require immediate interference or attention between the adjournment of the council and its next meeting; and all such acts shall be valid only till the next ensuing meeting of the council: but the committee shall have no power to alter, repeal or suspend any by-law of the council, R. S. O. 1877, c. 142, s. 14.

DIVISION ASSOCIATIONS.

Territorial di-
vision medical
associations.

15. In each of the territorial divisions described in Schedule A of this Act there may be established a "Territorial Division Medical Association," which may be called "The Division Association" of such division; every member of the College of Physicians and Surgeons of Ontario, resident within the said territorial division, shall be a member; and the representative in the council shall be *ex officio* chairman of such Division Association. R. S. O. 1877, c. 142, s. 15.

Tariff of fees.

16. The said Division Association may from time to time submit to the council a tariff or tariffs of professional fees, suitable to their division, or to separate portions of their division; and upon the said tariff or tariffs of fees receiving the approval of the council, signified by the seal of the College and by the signature of the president thereof, being appended thereto, such tariff or tariffs shall be held to be a scale of reasonable charges within the meaning of section 39 of this Act for the division or section of a division where the member making the charge resides. R. S. O. 1877, c. 142, s. 16.

MEDICAL EDUCATION.

Matriculation
examiners.

17.—(1) The council shall have power and authority to appoint an examiner or examiners for the admission of all students to the matriculation or preliminary examination, and to make by-laws and regulations for determining the admission and enrolment of students: but any change in the curriculum of studies fixed by the council shall not come into effect until one year after such change is made.

Homœopath-
ists.

(2) Until a Homœopathic Medical College for teaching purposes is established in Ontario, candidates wishing to be regis-

tered as Homœopathists shall pass the matriculation examination established by this Act, as the preliminary examination for all students in Medicine, and shall present evidence of having spent the full period of study required by the curriculum of the council, under the supervision of a duly registered homœopathic practitioner.

(3) Such candidates must also have complied with the full curriculum of studies, prescribed from time to time by the council for all medical students, but the full time of attendance upon lectures and hospitals required by the curriculum of the council may be spent in such Homœopathic Medical Colleges in the United States or Europe as may be recognized by a majority of the homœopathic members of the Council: but in all Homœopathic Colleges, where the winter course of lectures is only of four months' duration, certified tickets of attendance on one such course shall be held to be equivalent to two-thirds of one six months' course, as required by the Council; and when such teaching body has been established in Ontario it shall be optional for such candidates to pursue in part or in full the required curriculum in Ontario. R. S. O. 1877, c. 142, s. 17.

18. The council shall from time to time, as it may deem expedient, enact by-laws as to the terms upon which it will receive the matriculation and other certificates of Colleges and other institutions not in the Province of Ontario. R. S. O. 1877, c. 142, s. 18. Council to make by-laws.

19. Any graduate or any student having matriculated in Arts in any University in Her Majesty's Dominions, shall not be required to pass the preliminary examination. R. S. O. 1877, c. 142, s. 19. Graduates and matriculants of universities in Her Majesty's dominions.

20. The council shall have power and authority to fix and determine from time to time a curriculum of studies to be pursued by the students, and such curriculum of studies shall be observed and taught by all Colleges referred to in section 6 of this Act. R. S. O. 1877, c. 142, s. 20. Curriculum of studies.

MEDICAL REGISTRATION.

21. The council shall cause to be kept by an officer appointed by them, and to be called the registrar, a book or register, in which shall be entered the name of every person registered according to the provisions of this Act or the Acts mentioned in section 3 of this Act; and, from time to time the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in this Province; and those persons only whose names are inscribed in the book or register above mentioned, shall be Registration.

Inspection of
register.

deemed to be qualified and licensed to practise medicine¹ surgery or midwifery in this Province, except as herein-after provided, and such book or register shall at all times be open, and subject to inspection by any duly registered practitioner in Ontario, or by any other person. R. S. O. 1877, c. 142, s. 21.

Duty of
Registrar.

22. It shall be the duty of the registrar to keep his register correct, in accordance with the provisions of this Act, and the rules, orders and regulations of the council, and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Act, and the said registrar shall perform such other duties as may be imposed upon him by the council. R. S. O. 1877, c. 142 s. 22.

As to registra-
tion of persons
from Great
Britain and
Ireland.

23.—(1) It shall be optional for the council to admit to registration all such persons as are duly registered in the medical register of Great Britain, or are otherwise authorized to practise medicine, surgery and midwifery in the United Kingdom of Great Britain and Ireland, upon such terms as the Council may deem expedient.

Person in
practice before
1850.

(2) Any person who was actually practising medicine, surgery or midwifery or any of them in Ontario, prior to the 1st of January, 1850, and who has attended one course of lectures at any recognized medical school, shall, upon such proof as the Council may require, be entitled to registration under this Act.

Homœopaths
in practice
before 1850.

(3) Any person who was actually practising medicine, surgery or midwifery according to the principles of Homœopathy before the 1st day of January, 1850, and for the six years preceding the 24th day of March, 1874, in Ontario, may in the discretion of the representatives of the homœopathic system of medicine be admitted to registration under this Act. R. S. O. 1877, c. 142, s. 23.

Qualification
for, and mode
of registry.

24. Every person who possesses any one or more of the qualifications described in Schedule B to this Act, dated prior to the 23rd day of July, 1870, shall, on payment of a fee to be fixed by by-law of the council, not exceeding \$10, be entitled to be registered on producing to the registrar the document conferring or evidencing the qualification or each of the qualifications in respect whereof he seeks to be so registered, or upon transmitting by post to the registrar, information of his name and address, and evidence of the qualification or qualifications in respect whereof he seeks to be registered, and of the time or times at which the same was or were respectively attained: but no one registered under the Acts mentioned in section 3 of this Act shall be liable to pay any fee for being registered under this Act. R. S. O. 1877, c. 142, s. 24.

25. Every person desirous of being registered under the provisions of this Act, and who had not become possessed of any one of the qualifications in Schedule B mentioned, before the 23rd day of July, 1870, shall, before being entitled to registration, present himself for examination as to his knowledge and skill for the efficient practice of his profession before the Board of Examiners, mentioned in section 28; and upon passing the examination required, and proving to the satisfaction of the Board of Examiners that he has complied with the rules and regulations made by the council, and on the payment of such fees as the council may by general by-law establish, such person shall be entitled to be registered, and, in virtue of such registration, to practise medicine, surgery and midwifery in this Province. Examination before registration, when necessary. R. S. O. 1877, c. 142, s. 25.

26. When and as soon as it appears that there has been established a "Central Examining Board," similar to that constituted by this Act, or an institution duly recognized by the Legislature of any of the Provinces forming the Dominion of Canada, other than Ontario, as the sole examining body for the purpose of granting certificates of qualification, and wherein the curriculum is equal to that established in Ontario, the holder of any such certificate shall upon due proof be entitled to registration by the Council of Ontario, if the same privilege is accorded by such Examining Board or Institution to those holding certificates in Ontario. Registration of persons from other Provinces of the Dominion. R. S. O. 1877, c. 142, s. 26.

27. Each member of the College shall pay to the registrar or to any person deputed by the registrar to receive it, such annual fee as may be determined by by-law of the council not being less than \$1 nor more than \$2, towards the general expenses of the College, which last mentioned fee shall be payable on the first day of January in the year in which the same is imposed; and such fee shall be deemed to be a debt due by each member to the College, and shall be recoverable with costs of suit in the name of the College of Physicians and Surgeons of Ontario, in the Division Court where the member resides. Annual assessment. R. S. O. 1877, c. 142, s. 27.

28. At the annual meeting of the council in each year, there shall be elected by the members of the council a "Board of Examiners," whose duty it shall be to examine, at least once in each year, all candidates for registration in accordance with the by-laws, rules and regulations of the council; such examinations to be held at Toronto or Kingston at such times and in such manner as the council may by by-law direct. Board of Examiners. R. S. O. 1877, c. 142, s. 28.

29. The Board of Examiners appointed under the preceding section shall be composed as follows:—one member from each of the teaching bodies now existing, referred to in section 6 of this Act, and one from every other School of Medicine Examiners, how appointed.

which may be hereafter organized in connection with any University or College which is empowered by law to grant medical or surgical diplomas; and a number not exceeding five members to be chosen from among those members of the College of Physicians and Surgeons of Ontario, who are unconnected with any of the above teaching bodies. R. S. O. 1877, c. 142, s. 29.

Examinations
of Homœo-
paths.

30. Every candidate who, at the time of his examination, signifies his wish to be registered as a homœopathic practitioner, shall not be required to pass an examination in either materia medica, or therapeutics, or in the theory or practice of physic, or in surgery or midwifery, except the operative practical parts thereof, before any examiners other than those approved of by the representatives in the council of the homœopathic system. R. S. O. 1877, c. 142, s. 30.

Power of
Council to
make rules,
etc.

31. The council shall from time to time as occasion may require, make orders, regulations, or by-laws for regulating the registers to be kept under this Act, and the fees to be paid for registration, and shall from time to time make rules and regulations for the guidance of the Board of Examiners, and may prescribe the subjects and modes of the examinations, the time and place of holding the same, and generally may make all such rules and regulations in respect of such examinations not contrary to the provisions of this Act, as they may deem expedient and necessary. R. S. O. 1877, c. 142, s. 31.

Additional
qualification
or degree.

32. Every person registered under this Act who obtains any higher degree or any qualification other than the qualification in respect of which he has been registered, shall, on the payment of such fees as the council may appoint, be entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, the qualification previously registered. R. S. O. 1877, c. 142, s. 32.

Registrar to
be satisfied as
to qualifica-
tion.

Appeal to the
Council.

33.—(1) No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the registrar is satisfied by proper evidence that the person claiming is entitled to it; and any appeal from the decision of the registrar may be decided by the council; and any entry proved to the satisfaction of the council to have been fraudulently or incorrectly made, may be erased from the register by an order in writing of the council.

(2) In the event of the registrar being dissatisfied with the evidence adduced by the person claiming to be registered, he shall have the power, subject to an appeal to the council, of refusing registration until the person claiming to be registered has furnished such evidence duly attested by oath or affirmation, before the Judge of the County Court of any county. R. S. O. 1877, c. 142, s. 33.

34.—(1) Where any registered medical practitioner has either before or after the passing of this Act, and either before or after he is so registered been convicted either in Her Majesty's dominions or elsewhere of an offence, which if committed in Canada, would be a felony or misdemeanour, or been guilty of any infamous or disgraceful conduct in a professional respect, such practitioner shall be liable to have his name erased from the register. Erasing names from register.

(2) The council may, and upon the application of any four registered medical practitioners, shall cause enquiry to be made into the case of a person alleged to be liable to have his name erased under this section and on proof of such conviction or of such infamous or disgraceful conduct, shall cause the name of such person to be erased from the register: provided, that the name of a person shall not be erased under this section on account of his adopting, or refraining from adopting the practice of any particular theory of medicine or surgery, nor on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence which though within the provisions of this section ought not, either from the trivial nature of the offence, or from the circumstances under which it was committed, to disqualify a person from practising medicine or surgery.

(3) The council may order to be paid out of any funds at their disposal such costs as to them may seem just to any person against whom any complaint has been made which when finally determined, is found to have been frivolous and vexatious. 50 V. c. 24, s. 3.

35.—(1) Where the council direct the erasure from the register of the name of any person, or of any other entry, the name of that person or that entry shall not be again entered on the register, except by the direction of the council, or by the order of a Judge or of a Court of competent jurisdiction. Restoring names to register.

(2) If the council think fit in any case, they may direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as the council may, from time to time, fix, and the registrar shall restore the same accordingly. 50 V. c. 24, s. 4.

36.—(1) The council shall for the purpose of exercising in any case the powers of erasing from and of restoring to the register the name of any person or any entry, ascertain the facts of such case by a committee of their own body not exceeding five in number, of whom the quorum shall be not less than three, and a written report of the committee may be acted upon as to the facts therein stated for the purpose of the exercise of the said powers by the council. Committee for erasing and restoring names.

(2) The council shall from time to time appoint, and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section, may from time to time determine the constitution, and the number and tenure of office of the members of the committee.

(3) The committee shall meet, from time to time, for the despatch of business and subject to the provisions of this section, and of any regulations from time to time made by the council, may regulate the summoning, notice, place, management and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions, and generally the transaction and management of business including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body. In case of any vacancy the committee may appoint a member of the council to fill the vacancy until the next meeting of the council.

(4) A committee under this section may, for the purpose of the execution of their duties under this Act, employ, at the expense of the council such legal, or other assessor or assistant as the committee may think necessary or proper; and the person whose conduct is the subject of enquiry shall also have the right to be represented by counsel; provided that all meetings of any such committee when held for taking evidence or otherwise ascertaining the facts shall be held within the county where the member complained of resides or the alleged offence has been committed.

(5) At least two weeks before the first meeting of the committee to be held for taking the evidence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of enquiry, and such notice shall embody a copy of the charges made against him or a statement of the subject matter of the enquiry, and shall also specify the time and place of such meeting; the testimony of witnesses shall be taken under oath, which the chairman or acting chairman of the committee is hereby authorized to administer, and there shall be full right to cross-examine all witnesses called and to call evidence in defence and reply; in the event of the non-attendance of the person whose conduct is the subject of such enquiry, the committee may, upon proof of personal service of the notice aforesaid in accordance with the provisions of this section, which proof of service may be by statutory declaration, proceed with the subject matter of the enquiry in his absence and make their report of the facts without further notice to such person. 50 V. c. 24, s. 5.

Appeal from
committee.

37. No action shall be brought against the council or the committee for anything done *bona fide* under this Act, notwithstanding any want of form in the proceedings, but any person whose name has been ordered to be erased from the register may appeal from the decision of the council to any

Judge of the High Court, at any time within six months from the date of the order for such erasure, and the Judge may, upon the hearing of the appeal, make such order as to the restoration of the name so erased or confirming such erasure, or for further enquiries by the committee or council into the facts of the case, and as to costs as to such Judge shall seem right in the premises. 50 V. c. 24, s. 6.

38. The appeal may be by summons served upon the registrar to shew cause, and shall be founded upon a copy of the proceedings before the committee—the evidence taken, the committee's report and the order of the council in the matter—certified by the registrar, and the registrar shall, upon the request of any person desiring to appeal, furnish to any such person a certified copy of all proceedings, reports, orders and papers, upon which the committee have acted in making the order complained of. 50 V. c. 24, s. 7.

Rights of Registered Practitioners.

39. Every person registered under the provisions of this Act, shall be entitled according to his qualification or qualifications to practise medicine, surgery or midwifery, or any of them as the case may be, in the Province of Ontario, and to demand and recover in any Court with full costs of suit, reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. R. S. O. 1877, c. 142, s. 35.

Rights of registered persons.

40. No duly registered member of the College of Physicians and Surgeons of Ontario, shall be liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action be commenced within one year from the date when in the matter complained of such professional services terminated. 50 V. c. 24, s. 2.

Limitation of actions for negligence.

Publication of Register.

41.—(1) The registrar of the council shall from time to time under the direction of the council cause to be printed and published a correct register of the names in alphabetical order according to the surnames, with the respective residences in the form set forth in Schedule C to this Act, or to the like effect, together with the medical titles, diplomas and qualifications conferred by any College or body with the dates thereof, of all persons appearing on the register as existing on the day of publication; and such register shall be called "The Ontario Medical Register;" and a copy of such register for the time being purporting to be so printed and published as aforesaid, shall be *prima facie* evidence in all Courts, and before all Justices of the Peace, and others, that the persons therein specified are regis-

Register to be printed and published.

Register to be *prima facie* evidence in all Courts.

tered according to the provisions of this Act, and, subject to the provisions of sub-section 2 of this section, the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act.

(2) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar of the council, of the entry of the name of such person on the register, shall be evidence that such person is registered under the provisions of this Act. R. S. O. 1877, c. 142, s. 36.

OFFENCES AND PENALTIES.

Those entitled to register, and neglecting to do so.

42. Any person entitled to be registered under this Act, but who neglects or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by registration under the provisions of this Act, so long as such neglect or omission continues, and he shall be liable to all the penalties imposed by this Act, or by any other Act in force against unqualified or unregistered practitioners. R. S. O. 1877, c. 142, s. 37.

Penalty on Registrar for falsification.

43. If the registrar makes or causes to be made any wilful falsification in any matter relating to the register, he shall incur a penalty of \$50, and shall be disqualified from again holding that position, R. S. O. 1877, c. 142, s. 38.

Penalty for false registration.

44.—(1) If any person procures or causes to be procured his registration under this Act, by means of any false or fraudulent representation or declaration, either verbally or in writing, it shall be lawful for the registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of said representation or declaration, to represent the matter to the council, and upon the written order of the president, attested by the seal of the College, to erase the name of such person from the register, and to make known the fact and cause of the erasure by notice to be published in the *Ontario Gazette*; and after such notice has appeared the person whose name has been erased as aforesaid shall cease to be a member of the College of Physicians and Surgeons of Ontario, and shall cease to enjoy any of the privileges conferred by registration under this Act at any future time, without the express sanction of the Council.

(2) If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he shall on conviction thereof before any Justice of the Peace incur a penalty not exceeding \$100; and every person knowingly aiding and assisting him therein shall on conviction thereof incur a penalty of not less than \$20 nor more than \$50 for each such offence. R. S. O. 1877, c. 142, s. 39.

45. It shall not be lawful for any person not registered to practise medicine, surgery or midwifery for hire, gain, or hope of reward; and if any person not registered pursuant to this Act, for hire, gain or hope of reward practises or professes to practise medicine, surgery or midwifery or advertises to give advice in medicine, surgery or midwifery, he shall upon a summary conviction thereof before any Justice of the Peace, for any and every such offence, pay a penalty not exceeding \$100 nor less than \$25. R. S. O. 1877, c. 142, s. 40.

Penalty for practising without registration.

46. Any person who wilfully or falsely pretends to be a Physician, Doctor of Medicine, Surgeon, or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, shall be liable on conviction thereof before a Justice of the Peace to a penalty not exceeding \$50, nor less than \$10. R. S. O. 1877, c. 142 s. 41.

Penalty for falsely pretending, etc.

47. Any person not registered pursuant to this Act who takes or uses any name, title, addition or description implying or calculated to lead people to infer, that he is registered under this Act, or that he is recognized by law as a Physician, Surgeon, Accoucheur, or a Licentiate in Medicine, Surgery or Midwifery, shall be liable upon a summary conviction thereof before any Justice of the Peace to pay any penalty not exceeding \$100 nor less than \$25. R. S. O. 1877, c. 142, s. 42.

Penalty for using title implying registration.

48. No person shall be entitled to recover any charge in any Court for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he may have prescribed or supplied, unless he is registered under this Act: but this section shall not extend to the sale of any drug or medicine by any duly licensed chemist or druggist. R. S. O. 1877, c. 142, s. 43.

None entitled to recover charges unless registered.

49. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of this Province, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he is registered under the provisions of this Act. R. S. O. 1877, c. 142, s. 44.

Public appointments only conferred on registered persons.

50. No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid unless the person signing the same is registered under this Act. R. S. O. 1877, c. 142, s. 45.

Certificates by unregistered persons invalid.

51. Any prosecutions under this Act may be brought or heard before any one or more of Her Majesty's Justices of the Peace having jurisdiction where any such offence has been committed; and the Justice or Justices may award payment of costs in addition to the penalty; and in case the penalty and

Where prosecution may be brought.

costs awarded by him or them are not upon conviction forthwith paid, may commit the offender to the Common Gaol, there to be imprisoned for any term not exceeding one month, unless the penalty and costs are sooner paid. R. S. O. 1877, c. 142, s. 46.

Security on
appeals.

52. Any person convicted under this Act who gives notice of appeal against the decision of the convicting Justice, shall be required before being released from custody to give to the Justice satisfactory security for the amount of the penalty, costs of conviction and appeal. R. S. O. 1877, c. 142, s. 48.

Onus pro-
bandi.

53. In any trial under this Act the burden of proof as to registration shall be upon the person charged. R. S. O. 1877, c. 142, s. 49.

Evidence of
registry and
signature of
Registrar.

54. In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the registrar of the council for the time being shall be sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register; and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of registrar of the council under this Act shall be *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar. R. S. O. 1877, c. 142, s. 50.

Limitation of
prosecutions.

55. Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. R. S. O. 1877, c. 142, s. 51.

Stay of pro-
ceedings.

56. The council by an order signed by the president having the seal of the College appended thereto, may stay proceedings in any prosecution under this Act where it is deemed expedient. R. S. O. 1877, c. 142, s. 52.

To whom
penalties
paid.

57.—(1) All penalties recoverable under this Act shall be paid to the convicting Justice and by him paid to the registrar of the college, and shall form part of the funds thereof.

Prosecutor.

(2) Any person may be prosecutor or complainant under this Act, and the council may allot such portion of the penalties recovered as may be expedient towards the payment of such prosecutor. R. S. O. 1877, c. 142, s. 53.

Council funds.

58. All moneys forming part of the council funds shall be paid to the treasurer, and may be applied to carry this Act into execution. R. S. O. 1877, c. 142, s. 54.

SCHEDULE A.

(Sections 6 and 15.)

1. Western and St. Clair Electoral Divisions, as established previous to Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

2. Malahide and Tecumseth Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

3. Saugeen and Brock Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

4. Gore and Thames Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

5. Erie and Niagara Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

6. Burlington and Home Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

7. Midland and York Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the Late Province of Canada.

8. King's and Queen's Electoral Divisions, as established previous to the Confederation of the British American Provinces, for the election of Members of the Legislative Council of the late Province of Canada.

9. Newcastle and Trent Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

10. Quinté and Cataraqui Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

11. Bathurst and Rideau Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of Members of the Legislative Council of the late Province of Canada.

12. St. Lawrence and Eastern Electoral Divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

R. S. O. 1877, c. 142, Sched. A.

SCHEDULE B.

(Sections 24 and 25.)

1. License to practise Physic, Surgery and Midwifery, or either, within Upper Canada, granted under the Acts of Upper Canada, 59 Geo. III. c. 13, and 8 Geo. IV. c. 3, respectively.

2. License or diploma granted under 2 Vict. c. 38, or under the Consolidated Statutes for Upper Canada, chapter 40, or any Act amending the same.

3. License or authorization to practise Physic, Surgery and Midwifery or either, within Lower Canada, whether granted under the Ordinance 28 Geo. III., c. 8, or under the Act 10 & 11 Vict., c. 26, and the Acts amending the same, or under chapter 71 of the Consolidated Statutes for Upper Canada, or any Act amending the same.

4. Certificate of Qualification to practise Medicine, Surgery and Midwifery, or either, hereafter to be granted by any of the Colleges or bodies named or referred to in section 6 of this Act.

5. Medical or surgical degree or diploma of any University or College in Her Majesty's Dominions, or of such other Universities or Colleges as the Council may determine.

6. Certificate of registration under the Imperial Act, 21 & 22 Vict. c. 90, known as "The Medical Act," or any Act amending the same.

7. Commission or warrant as Physician or Surgeon, in Her Majesty's military service.

8. Certificates of qualification to practise under any of the Acts relating to Homœopathy or the Eclectic system of Medicine.

R. S. O. 1877, c. 142, Sched. B.

SCHEDULE C.

(Section 41.)

NAME.	Residence.	Qualifications and additions.
A. B.	Toronto, County of York.....	M.A., M.D., Toronto University.
C. D.	Kingston, County of Frontenac....	M.A., M.D., Queen's University.
E. F.	Etobicoke, County of York.....	Licentiate, Medical Board.
G. H.	Toronto	do Toronto School of Medicine.

R. S. O. 1877, c. 142, Sched. C.

CHAPTER 149.

An Act respecting the Study of Anatomy.

WHAT BODIES MAY BE DELIVERED FOR DISSECTION, s. 1.	REGISTER TO BE KEPT BY SUPERINTENDENTS OF PUBLIC INSTITUTIONS, s. 11.
BODY MAY BE CLAIMED BY FRIENDS, s. 2.	SECURITY TO BE GIVEN BY MEDICAL SCHOOLS, s. 13.
TO WHOM BODIES TO BE DELIVERED, s. 3.	PENALTIES :
INSPECTORS OF ANATOMY—APPOINTMENT AND DUTIES, ss. 4, 5.	Neglect of duty by inspectors, etc., s. 14.
Fees, s. 12.	Removal of bodies from Province, s. 15.
DISTRIBUTION TO DIFFERENT MEDICAL SCHOOLS, s. 6.	Recovery of, s. 16.
NOTICE TO INSPECTOR BY CORONER, ETC., ss. 7-10.	BURIALS BY MUNICIPALITIES, s. 17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. In all localities coming under the provisions of this Act the body of any person found dead, publicly exposed, or sent to a public morgue, or who immediately before death had been supported in and by any public institution, shall be delivered to persons qualified as hereinafter mentioned, unless such body be within forty-eight hours after death claimed by relations or *bona fide* friends, or being a lunatic, dies in any Provincial Asylum for the insane ; provided nevertheless, that the authorities in whose care any body may be, shall not deliver the same to any person other than a known relative unless such person shall pay to the said authorities the sum of \$5 to defray the funeral expenses of the body so claimed, the said sum to be paid over to the undertaker by the said authorities when satisfied that the body has been properly interred. 48 V. c. 31, s. 2.

Certain bodies may be delivered for study of anatomy.

Proviso.

2. Any medical school obtaining a body as provided by the preceding section shall keep and preserve the same for a period of not less than five days, and in the event of a relative or *bona fide* friend claiming the body within a period of five days from the receipt thereof by the medical school, the medical school shall deliver over the body to the said relative or *bona fide* friend upon the receipt of the reasonable costs and charges for preserving and keeping the same, not to exceed the sum of \$10. 48 V. c. 31, s. 3.

Body delivered to medical school may be claimed by friends.

To whom such bodies shall be delivered.

3. The persons qualified to receive such unclaimed bodies shall be teachers of anatomy or surgery in recognized medical schools; and if there be any medical school in the locality, such school shall have the first claim to the body. 48 V. c. 31, s. 4.

Appointment of Inspector of Anatomy.

4. The Lieutenant-Governor may appoint, during pleasure, a person not being a medical practitioner, nor connected with any school of medicine, to be Inspector of Anatomy for such part of the Province, or for such city, town or other locality therein as may be named in the appointment. 48 V. c. 31, s. 5.

Duties of Inspector.

5. It shall be the duty of every inspector of anatomy—

1. To keep a register of the name, age, sex, birth place and religious denomination, if any, of each unclaimed body received by him, and the name of the school to which delivered, with date of delivery.

2. To keep a register of medical schools duly qualified to receive and desirous of receiving bodies for instruction of pupils.

3. To distribute all bodies, in rotation, to such schools in proportion to the number of persons actually engaged in the study of human anatomy in each school, as shewn by their official registers, which he shall be allowed to inspect.

4. To inspect the several authorized practical anatomy rooms in his locality at least once in every six weeks, and to direct the removal and decent interment of any remains that he deems it advisable to have interred.

5. To keep his registers open for the inspection of any medical practitioner who may desire to inspect them. 48 V. c. 31, s. 6.

Distribution to different medical schools in same city.

6. Where more than one medical school situated in the same city shall have made application for bodies, every inspector upon sending a body to either school shall notify the inspector of the city in which such school is situated, and the inspector for such city in distributing the bodies he receives from his own district shall have regard to the number of bodies each school has received from other inspectors outside, and if necessary direct them from time to time to which school they shall send bodies, so that each school shall receive from all sources in proportion to the number of persons actually engaged in the study of human anatomy in each school. 48 V. c. 31, s. 7.

Coroner to give notice to Inspector of bodies found exposed.

7. Every coroner, whether he does or does not hold an inquest on a body found publicly exposed, to which his attention has been called, and which is not claimed in accordance with section 1 of this Act, shall give notice to the inspector of anatomy of the locality, if there be one, failing which, he shall cause the body to be interred as has been customary. 48 V. c. 31, s. 8.

8. The person in charge of a public morgue shall, when a body is placed in it of a person not known to have any relatives or friends entitled to claim the body, give notice of such unclaimed body to the inspector of anatomy for the locality. 48 V. c. 31, s. 9.

Notice to be given to Inspector by person in charge of morgue.

9. The mayor of a city or town coming under the provisions of this Act shall direct notice to be given to the Inspector of Anatomy of any adult body that is brought under his notice which is unclaimed by relatives or friends, as set forth in section 1 of this Act. 48 V. c. 31, s. 10.

Notice to be given to Inspector by Mayor of city or town.

10. The superintendent of every public institution shall, upon the death of an inmate of the institution who is not known to have any relatives or friends entitled to claim the body, immediately give notice of such death to the inspector of anatomy for the locality. 48 V. c. 31, s. 11.

Notice to be given to Inspector by superintendents of public institutions.

11. Every such superintendent shall keep a register shewing the name, age, sex, birth-place and religious denomination of each person whose body is disposed of under the provisions of this Act, and the school to which such body is delivered, and shall file all documents furnished by persons claiming bodies, which register and file shall be open for inspection; and no such superintendent shall deliver any body to a medical school except on the written order of the inspector of anatomy for the locality. 48 V. c. 31, s. 12.

Register to be kept by superintendent.

12. The inspector of anatomy shall receive \$5 for every body delivered under the provisions of this Act, which sum shall be paid to him by the school on delivery of the body. 48 V. c. 31, s. 13.

Fees of Inspector.

13. Any medical school wishing to avail itself of the benefits of this Act shall appear through its official head, before one of Her Majesty's Justices of the Peace and the inspector of anatomy, and give security in the sum of \$80, with two good and sufficient sureties in the sum of \$40 each, for the decent interment of the bodies after they have served the purposes required; and upon the due fulfilment of these conditions, the inspector of anatomy shall deliver to such school a written authority to open a practical anatomy room entitled to the benefits of this Act. 48 V. c. 31, s. 14.

Medical schools availing themselves of this Act to give security.

14. Any inspector of anatomy, warden of a public institution, medical practitioner, coroner or other official who neglects to discharge the duties required of him by this Act or infringes any of its provisions, shall be liable to a fine of not more than \$20 for every such offence. 48 V. c. 31, s. 15.

Penalty for neglect of duty by Inspector, etc.

Removal of
bodies from
Province for
purposes of
anatomy pro-
hibited.

15. No person shall send or take a body out of the Province of Ontario for surgical or practical anatomy purposes, and every person contravening the provisions of this section shall for each offence incur a penalty of \$100, notwithstanding the provisions of section 14 of this Act. 48 V. 31, s. 16.

Recovery of
penalties.

16. Every penalty imposed by this Act may be recovered with costs on summary conviction before any two Justices of the Peace or a Police Magistrate. 48 V. c. 31, s. 17.

Burials of
unclaimed
bodies.

17. Subject to the provisions of this Act, any unclaimed human body found dead within the limits of a city, town, incorporated village or township, shall be buried at the expense of the corporation of such city, town, village or township, but such corporation may recover such expense from the estate of the deceased. 43 V. c. 11, s. 4.

CHAPTER 150.

An Act respecting Dentistry.

ROYAL COLLEGE OF DENTAL SUR-
GEONS CONTINUED, s. 1.

POWER TO HOLD REAL ESTATE, s. 2.

BOARD OF DIRECTORS, ss. 3-8.

POWERS OF BOARD—

Establishment of School of Den-
tistry, s. 9.

Preliminary examinations of stu-
dents, s. 10.

Curriculum of studies and regula-
tions respecting students, s. 11.

Power to arrange for education of
students, s. 12.

Examination of candidates and
granting of certificates of li-
cense, s. 13.

Conferring degree of M. D. S.,
s. 14.

By-laws, s. 15.

Certificates of License, who en-
titled to, s. 16.

Annual meetings of the Board for
holding examinations, s. 17.

Examination fees, s. 18.

Granting Certificates of License,
etc., ss. 19-21.

OFFENCES AND PENALTIES—

Practising without certificate, s. 22.

Procedure on prosecutions, ss.
23-27.

PERSONS CONTRAVENING THIS ACT
NOT TO RECOVER FOR WORK
DONE, s. 28.

MEDICAL PRACTITIONERS NOT AF-
FECTED, s. 29.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Royal College
of Dental
Surgeons con-
tinued, 1
31 V. c. 37.

1. "The Royal College of Dental Surgeons of Ontario," in-
corporated under the Act passed in the 31st year of Her
Majesty's Reign, and chaptered 37 is continued, and every
person who holds a valid and unforfeited certificate of license
to practise dentistry which has been granted to him by the
Board of Directors of the said College, shall be a member of
the said corporation. R. S. O. 1877, c. 144, s. 1.

Power to hold
real estate.

2.—(1) The said College shall have power to acquire and hold
real estate not exceeding at any time in annual value \$5,000, and
may alienate, exchange, mortgage, incumber, lease or otherwise

charge or dispose of the same, or any part thereof, as occasion may require, and may erect buildings for the purpose of accommodating lecturers on dentistry, or for a library, dental museum, or specimen room, or for other purposes, for the use of the members of the said College. 49 V. c. 30, s. 7.

(2) No such alienation, exchange, mortgage, incumbrance, lease, charge or disposition, shall be made, given or effected, except with the consent of the board of directors, which consent, shall be signified by the votes of a majority of the members present at a meeting of the board duly called for that purpose; and notice of such meeting shall be given to every member of the board, by letter mailed to his last registered address, seven days before the day appointed for such meeting, and the notice shall state the object of such meeting. The president and secretary shall have power to affix the corporate seal of the College to any instrument necessary to carry out the intention of the board. 49 V. c. 30, s. 8.

3.—(1) The board of directors of the said College shall consist of seven members, who shall hold office for two years, and of whom any four shall form a quorum. Directors to hold office for two years. Quorum.

(2) Any member of the board may at any time resign by letter directed to the secretary, and in the event of such resignation or a vacancy occurring by death or otherwise, the remaining members of the board shall elect some fit and proper person from among the licentiates to supply the vacancy. R. S. O. 1877, c. 14, s. 2. Vacancies.

4.—(1) Elections of the board of directors shall be held on the third Tuesday in July, in the city of Toronto, in every second year. Elections, when to be held.

(2) The persons qualified to vote at such election shall be those who have obtained certificates of license under the provisions of the Acts respecting Dentistry heretofore in force, or who shall hereafter obtain certificates of license under the provisions of this Act. R. S. O. 1877, c. 144, s. 3.

5. Every newly elected board of directors shall hold its first meeting at noon on the day following the election of the board, at such place in the city of Toronto as may from time to time be fixed by the retiring board. R. S. O. 1877, c. 144, s. 4. First meeting of the Board.

6.—(1) The newly elected board shall, at its first meeting elect from among its members a president, treasurer, secretary and registrar, and such other officers as may be necessary to the working of this Act and the rules and regulations of the board. Appointment of President and other officers.

(2) The board shall from time to time, in the event of the president being absent, from any cause whatever, elect, from among its members, a person to preside at its meetings, who shall have the same powers, and exercise the same functions as the president. R. S. O. 1877, c. 144, s. 5.

Remuneration.

7. There shall be allowed and paid to each of the members of the board such fees for attendances (in no case to exceed \$5 per day), and such reasonable travelling expenses as may from time to time be allowed by the board. R. S. O. 1877, c. 144, s. 6.

Funds payable to the Treasurer.

8. All moneys under the control of the board shall be paid to the treasurer, and shall be applied to the carrying of this Act into execution. R. S. O. 1877, c. 144, s. 7.

Establishment of a School of Dentistry.

9. The board shall have power and authority to make arrangements for the establishment of a school of dentistry in the city of Toronto. R. S. O. 1877, c. 144, s. 8.

Examinations.

10. The board shall have power and authority to appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that any student has passed any other satisfactory examination. Such examination shall be passed prior to entering into articles of indenture with a licentiate of dentistry, and the commencement of study shall date from the signing of said articles. R. S. O. 1877, c. 144, s. 9; 49 V. c. 30, s. 1.

Curriculum.

11. The board shall also have power and authority to fix and determine, from time to time, a curriculum of studies to be pursued by students, and to fix and determine the period for which every student shall be articulated and employed under some duly licensed practitioner, and the examination necessary to be passed before the board, and the fees to be paid into the hands of the treasurer of the board, before receiving a certificate of license to practise the profession of dentistry. R. S. O. 1877, c. 144, s. 10.

Arrangements for education of students.

12. The Royal College of Dental Surgeons, of Ontario, may, subject to the approval of the Lieutenant-Governor in Council make arrangements with any University or College in Ontario, for the attendance of students of the Royal College of Dental Surgeons at such lectures or classes in any such University or College, as may come within the course or subjects of instruction prescribed by the rules, by-laws, and regulations of the said, the Royal College of Dental Surgeons of Ontario, and may, subject as aforesaid, agree with any such University or College, for the use of any library, museum, or property belonging to, or under the control of, such University or College, and may affiliate with any such University or College, and may enter into all arrangements necessary for such end, upon such terms as may be agreed upon. 49 V. c. 30, s. 9.

Authority to examine candidates and grant licenses.

13. The board of directors of the College shall also have authority to examine candidates and grant certificates of license to practise Dental Surgery in this Province. R. S. O. 1877, c. 144, s. 11.

14. With a view to encourage the attainment of a higher standard of education among the licentiates of the College the board may by by-law provide that any licentiate in dentistry, being a member of the College of not less than five years' standing, shall receive the title of "Master of Dental Surgery" of said College, upon passing such examinations and complying with such regulations as the Board of Directors may from time to time prescribe. R. S. O. 1877, c. 144, s. 12.

15.—(1) The board shall from time to time make such rules regulations and by-laws as may be necessary for the proper and better guidance, government, discipline and regulation of the said board and said profession of dentistry, and the carrying out of this Act, which said rules, regulations and by-laws shall be published for two consecutive weeks in the *Ontario Gazette*.

(2) Any or all of such rules, regulations and by-laws shall be liable to be cancelled and annulled by an order of the Lieutenant-Governor of this Province. R. S. O. 1877, c. 144, s. 13; 49 V. c. 30, s. 2.

16. All persons being British subjects by birth or naturalization, who were engaged on the 4th day of March, 1868, in the practice of the profession of dentistry, or who, not having been residents of Ontario, have had three years experience in the practice of dentistry shall be entitled to the certificate of "Licentiate of Dental Surgery," upon furnishing to the Board satisfactory proof of their having been so engaged, or having had such experience, and upon passing the required examination, and upon payment of the fees authorized and fixed by the board, (of the payment of which the treasurer's receipt shall be sufficient evidence); and all persons being British subjects by birth or naturalization, who were constantly engaged for five years and upwards in established office practice, next preceding the said 4th day of March, 1868, in the practice of the profession of dentistry in the Province of Ontario shall upon proof as aforesaid, and upon payment of the fees aforesaid, be entitled to such certificate without passing any examination. R. S. O. 1877, c. 144, s. 14.

17. The board shall hold one meeting in each year in the city of Toronto, at such place as may from time to time be fixed by the Board, for the purpose of examining students, granting certificates of license, and doing such other business as may properly come before them. The said meetings shall be held on the first Tuesday in March or such other time as the board may by by-law appoint and shall continue from day to day until the business before the board is finished: but no such meeting shall continue for more than one week. R. S. O. 1877, c. 144, s. 15; 49 V. c. 30, s. 3.

Fees payable
before exam-
ination.

18. Every person desirous of being examined by the board touching his qualifications for the practice of the profession of dentistry, shall at least one month before the sittings of the board, pay into the hands of the treasurer the required fees, and enclose and deliver to the secretary the treasurer's receipt for the same, together with satisfactory evidence of his apprenticeship, integrity and good morals; and it shall be the duty of the board to hold a sitting for the purpose hereinbefore mentioned on the first Tuesday in March next ensuing the said payment and delivery or on such other day as shall be appointed by the board as aforesaid. R. S. O. 1877, c. 144, s. 16; 49 V. c. 30, s. 4.

Certificate of
License.

19. If the board is satisfied by the examination that the person is duly qualified to practise the profession of dentistry, and is further satisfied that he is a person of integrity and good moral character, it shall, subject to such rules, regulations and by-laws, grant him a certificate of license and the title of "Licentiate of Dental Surgery," which certificate and title shall entitle him to all the rights and privileges conferred by this Act. R. S. O. 1877, c. 144, s. 17.

Designation
and title.

Certificate to
be under the
corporate seal.
Evidence.

20. Every certificate of license shall be sealed with the corporate seal of the College and signed by the president and secretary of the board; and the production of such certificate of license shall be *prima facie* evidence in all Courts and upon all proceedings of whatever kind, of its execution and contents. R. S. O. 1877, c. 144, s. 18.

Return of
licenses
granted.

21. The secretary of the said board shall, on or before the fifteenth day of January, in each year, enclose to the Provincial Secretary a certified list of the names of all persons to whom certificates of license have been granted during the then next preceding year. R. S. O. 1877, c. 144, s. 19.

No person to
practise with-
out certificate,

22.—(1) No person who is not a member of the said the Royal College of Dental Surgeons of Ontario, shall practise the profession of dentistry, or perform any dental operation upon, or prescribe any dental treatment for any patient, for hire, gain, or hope of reward, whether by way of fees, salary, rent, per centage of receipts or in any other form whatever. or shall pretend to hold, or take or use any name, title, addition or description implying that he holds a certificate of license to practise dentistry, or that he is a member of the said the Royal College of Dental Surgeons of Ontario, or shall falsely represent, or use any title representing that he is a graduate of any Dental College.

or without
authority as-
sume certain
titles.

Penalty.

(2) Every person who contravenes any of the provisions of this Act, shall for each such offence incur a penalty of \$20. R. S. O. 1877, c. 144, s. 20; 49 V. c. 30, ss. 5, 10.

(3) Provided that this section shall not prevent any duly indentured and registered student of dentistry from receiving clinical instruction and practice under the personal supervision of a member of the College. 49 V. c. 30, s. 5.

23. Every penalty imposed by this Act may be recovered with full costs of prosecution on summary conviction before any one or more of Her Majesty's Justices of the Peace for the county in which the offence is committed. R. S. O. 1877, c. 144, s. 21. Penalties how recoverable.

24. Except where it is herein otherwise provided, the procedure upon any such prosecution shall be that prescribed by *The Act respecting Summary Convictions before Justices of the Peace and Appeals to General Sessions*. R. S. O. 1877, c. 144, s. 22. Procedure upon prosecutions. Rev. Stat. c. 74.

25. The penalty and costs imposed upon any such conviction shall be forthwith paid over to the convicting Justice, and the penalty shall be by him paid over to the secretary of the said College; and in case the said penalty and costs are not paid forthwith, the said Justice may issue his warrant to commit the defendant to the common gaol of the county, there to be imprisoned for any term not exceeding one month, unless the penalty and costs are sooner paid. R. S. O. 1877, c. 144, s. 23. Application of penalty.

26. The penalty imposed by section 22 of this Act may be recovered with full costs of suit in the name of the Royal College of Dental Surgeons of Ontario, in the proper Division Court. R. S. O. 1877, c. 144, s. 24. Penalty may be recovered in name of the College.

27. On any prosecution or action under this Act, the burden of proof that the defendant is entitled to practise the profession of dentistry as aforesaid, or to use the title assumed by him, or that he is a graduate of the Dental College of which he professes to be a graduate (as the case may be), shall be upon the defendant. R. S. O. 1877, c. 144, s. 25. In prosecutions burden of proof to be on defendant.

28. No person who contravenes any of the provisions of this Act or any amending Act, shall be entitled to sue or recover in any Court for any work done, or materials provided by him, in the ordinary and customary work of a Dentist. R. S. O. 1877, c. 144, s. 26; 49 V. c. 30, s. 6. Persons contravening Act, not to recover for work done.

29. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by the Acts relating to the practice of medicine and surgery in this Province. R. S. O. 1877, c. 144, s. 27. This Act not to interfere with registered medical practitioners.

CHAPTER 151.

An Act respecting Pharmacy.

SHORT TITLE, s. 1.

ONTARIO COLLEGE OF PHARMACY
CONTINUED, s. 2.

POWER TO HOLD REAL ESTATE, s. 3.

PHARMACEUTICAL COUNCIL, ss. 4-7.

EXAMINATIONS OF CANDIDATES FOR
CERTIFICATES OF COMPETENCY,
ss. 8-11.QUALIFICATION FOR APPRENTICESHIP,
s. 12.REGISTRATION OF QUALIFIED PER-
SONS, ss. 13-22.

PREPARATION OF COMPOUNDS, s. 23.

SALE OF POISONS, ss. 24-26.

OFFENCES AND PENALTIES, ss. 27-30.

MEDICAL PRACTITIONERS NOT AF-
FECTED BY THIS ACT, s. 31.EXECUTORS MAY CONTINUE BUSINESS,
s. 32.

HONORARY MEMBERS, s. 33.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short title.

1. This Act may be cited as "*The Pharmacy Act*." 47 V.
c. 22, s. 1.

Ontario
College of
Pharmacy
(34 V. c. 34)
continued.

2. The Ontario College of Pharmacy, incorporated by the
Act passed in the thirty-fourth year of Her Majesty's reign,
and chaptered 34, is hereby continued. 47 V. c. 22, s. 2.

Power to hold
real estate,
build, etc.

3. The Ontario College of Pharmacy shall have power to
acquire and hold real estate, not exceeding at any time in an-
nual value \$5,000, and may alienate, exchange, mortgage, lease,
or otherwise charge or dispose of the said real estate or any part
thereof, as occasion may require, and may erect buildings for the
purpose of accommodating lecturers on chemistry or pharmacy or
for a library, pharmaceutical museum, or specimen room for the
use of the members and associates of the College; and all fees
payable under this Act shall belong to the College for the
purposes of this Act. 47 V. c. 22, s. 3.

Fees.

PHARMACEUTICAL COUNCIL.

Council of
whom com-
posed.

4. There shall be a council of the College, to be called the
Pharmaceutical Council, which shall consist of thirteen mem-
bers, who shall be elected as hereinafter provided, and shall
hold office for two years, and the council shall, subject
to the laws thereof, have sole control of the real and personal
property of the College, and have authority to grant certificates
of competency to conduct the business of a chemist or druggist
and to be registered subject to the provisions of this Act.
47 V. c. 22, s. 4.

5. A member of the council may at any time resign by letter directed to the registrar of the College; and in the event of a vacancy occurring, the remaining members of the council shall fill up such vacancy from the members of the College. 47 V. c. 22, s. 5. Resignation of members, and vacancy how filled.

6. An election of members of the council shall be held on the first Wednesday in July in every second year, and the persons qualified to vote at the election, shall be such persons as are members of the said College. 47 V. c. 22, s. 6. Subsequent elections.

7. The council shall, at their first meeting, elect from among themselves a president and vice-president, and shall appoint a registrar and such other officers as the council may consider necessary. 47 V. c. 22, s. 7. Election of President and officers.

CERTIFICATES OF COMPETENCY.

8. The council shall hold at least two sittings in every year, on the first Wednesday in February and first Wednesday in August, for the purpose of granting certificates of competency, at such places as they may by resolution appoint, of which due notice shall be given for at least one month in the *Ontario Gazette*, and in at least two newspapers published in the city of Toronto. 47 V. c. 22, s. 8. Sittings of the Council. For granting certificates.

9. The council of the said College shall, subject to the supervision and disallowance thereof by the Lieutenant-Governor in Council, have authority to prescribe the subjects upon which candidates for certificates of competency shall be examined, to establish a scale of fees not to exceed \$10, to be paid by persons applying for examination; and to make by-laws, rules and orders for the regulation of their own meetings and proceedings and those of the College; and for the remuneration and appointment of examiners and officers of the College; and for the payment of remuneration or indemnity to the members of the council in attending its sittings, or in attending upon the business of the College, and in respect to any other matters which may be requisite for the carrying out of this Act; provided always, that no more than five cents per mile for travelling expenses, or more than \$4 per day for such days only as he shall be in actual attendance upon the business of the College, including going to and returning from such sitting, be allowed to any member for such expenses and remuneration. 47 V. c. 22, s. 9. Powers of the Council as to subjects of examination, etc. Provision.

10. The examinations of the College may be conducted by the members of the council, or by persons appointed by them. 47 V. c. 22, s. 10. Who may examine.

WHO MAY APPLY FOR CERTIFICATES.

Qualification
of candidates
or certificates
of competency.

11. Subject to the rules, regulations and by-laws of the Ontario College of Pharmacy, the following persons and no others may be admitted as candidates for certificates of competency :

(a) Any person who shall furnish to the council of the College satisfactory evidence of having, in pursuance of a binding contract in writing for that purpose, served as an apprentice to a regularly qualified pharmaceutical chemist for a term of not less than three years ;

(b) In case any person who has apprenticed himself as aforesaid, shall by reason of the death, failure in business, or removal of his employer, or from any other cause satisfactory to the council, be unable to complete his term of apprenticeship with such employer, such person shall be at liberty, when and as often as this may happen, to enter into a new contract to complete the remainder of his unfulfilled term with any other regularly qualified pharmaceutical chemist ;

(c) Nothing in this section shall apply to any person who had, prior to the 25th day of March, 1884, begun his apprenticeship with a regularly qualified pharmaceutical chemist without such binding contract in writing. 47 V. c. 22, s. 11.

PRELIMINARY EXAMINATIONS.

Qualification
of persons
desiring to
serve appren-
ticeship under
this Act.

12. Every person who may hereafter be desirous of becoming apprenticed as aforesaid, shall, before the term of his apprenticeship begins to run for the purpose of this Act, furnish to the registrar of the College a certificate or other evidence satisfactory to the council, shewing that prior to the commencement of his apprenticeship he had passed an examination entitling him to admission to a High School, College, Collegiate Institute, or to the fourth form of a public school for the Province of Ontario ; provided that apprentices who have commenced their apprenticeship out of the Province, shall give satisfactory evidence of having had equal qualification to the aforesaid at the time when their apprenticeship was entered upon. 47 V. c. 22, s. 12.

Proviso.

REGISTRATION.

Register to be
kept of per-
sons regis-
tered or
entitled to be
registered.

13. It shall be the duty of the registrar to make and keep a correct register, in accordance with the provisions of this Act, as shewn in Schedule B, of all persons who may be entitled to be registered under this Act, and to enter opposite the names of all registered persons who have died, a statement of such fact, and from time to time to make the necessary alterations in the addresses of persons registered under this Act, and to cause to be printed and published on or before the fifteenth day

of June of each year, an alphabetical list of the members who were on the first day of June of that year, entitled to keep open shop as pharmaceutical chemists. 47 V. c. 22, s. 13.

14. Any person having passed such examination as aforesaid to the satisfaction of the council, shall be entered upon the roll of registered chemists and druggists, and shall become a member of the College. 47 V. c. 22, s. 14.

Entry on the roll

15. All persons approved of by the council of the College, who hold diplomas from the Pharmaceutical Society of Great Britain, or certificates from any Pharmaceutical College in the Dominion of Canada or elsewhere, may be registered as members of the Ontario College of Pharmacy without the examination prescribed by this Act. 47 V. c. 22, s. 34.

Persons holding diplomas from other societies may be registered.

16. No name shall be entered in the register except of persons authorized by this Act to be registered, nor unless the registrar is satisfied by proper evidence that the person claiming is entitled to be registered; and any appeal from the decision of the registrar may be decided by the council of the College, and any entry proved to the satisfaction of the council to have been fraudulently or incorrectly made, may be erased from or amended in the register by order of the council. 47 V. c. 22, s. 16.

Who may be entered on the register.
Appeal from decision of the registrar.
Fraudulent or incorrect entries may be erased.

17. Upon any person being registered under this Act, he shall be entitled to receive a certificate in the form of Schedule D or to the like effect, under the corporate seal of the College, and signed by the registrar. 47 V. c. 22, s. 17.

Certificate to be granted on registration.

18. There shall be payable to the registrar of the College, for the uses of the College, on the first day of May of each year, by every person registered and carrying on business as a pharmaceutical chemist, the sum of \$4; provided, that in case such person shall carry on business in more than one locality the further sum of \$4 shall be payable by him, as aforesaid, for each additional place of business, and provided also, that all employees or assistants who manage or have charge of such additional places of business, shall be legally qualified pharmaceutical chemists. 47 V. c. 22, s. 18.

Fees.

19. Any person registered under this Act, and no other person, shall be entitled to be called a pharmaceutical chemist, and no other person except a pharmaceutical chemist, as aforesaid, or his employee or employees, shall be authorized to compound prescriptions of legally authorized medical practitioners; but no person shall be entitled to any of the privileges of a pharmaceutical chemist, or member of the College, who is in default in respect to any fees payable by him by virtue of this Act. 47 V. c. 22, s. 19.

Who alone may be styled Pharmaceutical Chemist, and dispense.

Erasing
of member on
conviction of
offence.

20. Upon a resolution of the council of the College being passed, declaring that any person in consequence of his conviction for any offence or offences against this Act, is, in the opinion of the council, unfit to be on the register under this Act, the Lieutenant Governor in Council may direct that the name of such person shall be erased from the register, and it shall be the duty of the registrar to erase the same accordingly. 47 V. c. 22, s. 20.

Certificate to
be publicly
displayed.

21. Every pharmaceutical chemist carrying on business on his own account shall display his certificate in a conspicuous position in his place of business. 47 V. c. 22, s. 21.

Person retir-
ing from busi-
ness to notify
registrar.

22. Every person having been registered under this Act or any former Act, as a pharmaceutical chemist, shall, on retiring from business as a chemist, give the registrar notice in writing of the same, and in default thereof he shall remain liable for his annual registration fee; provided that it shall be lawful for any such person to resume the business of chemist and druggist at any time after retiring therefrom as aforesaid, upon giving notice in writing to the registrar of the College of his intention so to do, and upon payment to him of the then current annual registration fee. 47 V. c. 22, s. 22.

PREPARATION OF COMPOUNDS.

How com-
pounds are to
be prepared.

23. All compounds named in the British Pharmacopœia shall be prepared according to the formula directed in the latest edition published "by authority" unless the College of Physicians and Surgeons of this Province select another standard, or unless the label distinctly shews that the compound is prepared according to another formula. 47 V. c. 22, s. 23.

SALE OF POISONS.

Restriction on
sale of poisons,
etc., and on
the assump-
tion of certain
titles

24. No person shall sell or keep open shop for retailing, dispensing or compounding poisons, or sell or attempt to sell any of the articles mentioned in Schedule A to this Act, or assume or use the title of "Chemist and Druggist," or "Chemist," or "Druggist," or "Pharmacist," or "Apothecary," or "Dispensing Chemist," or "Dispensing Druggist," in any part of the Province of Ontario, unless such person is registered under this Act, and unless such person has taken out a certificate under the provisions of section 18 of this Act, for the time during which he is selling or keeping open shop for retailing, dispensing or compounding poisons, or assuming or using such title; provided, that nothing in this Act contained shall be taken to prevent the sale, by persons not registered in pursuance of this Act, of Paris Green, London Purple, and other arsenical insecticides, so long as such articles are sold in well secured packages distinctly labelled with the name and address

Provided,

of the seller and marked "Poison," and a record of such sales is kept as required under the provisions of this Act. 47 V. c. 22, s. 24.

25. The several articles named or described in Schedule A shall be deemed to be poisonous within the meaning of this Act, and the council of the Ontario College of Pharmacy, hereinafter mentioned, may from time to time by resolution declare, that any article in the resolution named ought to be deemed a poison within the meaning of this Act, and thereupon the said council shall submit the same for the approval of the Lieutenant-Governor-in-Council, and if approval is given, then such resolution and approval shall be advertised in the *Ontario Gazette*, and on the expiration of one month from the advertisement the article named in the resolution shall be deemed to be a poison within the meaning of this Act, and the same shall be subject to the provisions of this Act, or such of them as may be directed by the Lieutenant-Governor in Council. 47 V. c. 22, s. 25.

26. No person shall sell any poison named in the first part of Schedule A either by wholesale or retail, unless the bottle, vessel, wrapper or cover in which the poison is contained is distinctly labelled with the name of the article and the word "Poison" and if sold by retail, then also with the name and address of the proprietor of the establishment in which such poison is sold; and no person shall sell any poison mentioned in the first part of Schedule A to any person unknown to the seller unless introduced by some person known to the seller; and on every sale of any such article the person actually selling the same shall, before delivery, make an entry in a book to be kept for that purpose, in the form set forth in Schedule C to this Act, stating the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person, if any, who introduced him, to which entry the signature of the purchaser shall be affixed. 47 V. c. 22, s. 26.

OFFENCES AND PENALTIES.

27. No person shall wilfully or knowingly sell any article under the pretence that it is a particular drug or medicine which it is not in fact, and any person so doing (besides any other penalties to which he may be liable) shall be subject to the penalties prescribed by section 28 of this Act. 47 V. c. 22, s. 27.

28. Any person transgressing any of the provisions of this Act, or selling any poison in violation thereof, shall for the first offence incur a penalty of \$20 and costs of prosecution, and for each offence committed subsequent to such

conviction, a penalty of \$50 and costs of prosecution, to be recovered in a summary manner before one or more Justices of the Peace or Police Magistrate, on the oath of one or more credible witnesses, one moiety to belong to the prosecutor and the other to be paid to the registrar for the use of the College. 47 V. c. 22, s. 28.

Proof on prosecution.

29. In any prosecution under this Act it shall be incumbent upon the defendant to prove that he is entitled to sell or keep open shop for compounding medicines or retailing poisons, and to assume the title of chemist and druggist, or other title mentioned in section 24 of this Act, and the production of a certificate purporting to be under the hand of the registrar and under the seal of the College, shewing that he is so entitled, shall be *prima facie* evidence that he is so entitled. 47 V. c. 22, s. 29.

Price of articles sold contrary to this Act not to be recovered.

30. No person selling articles in violation of the provisions of this Act shall recover any charges in respect thereof in any Court of Justice. 47 V. c. 22, s. 30.

ACT NOT TO AFFECT MEDICAL PRACTITIONERS.

Act not to apply to medical practitioners.

31.—(1) Nothing in this Act contained shall extend to or interfere with the privileges conferred upon legally qualified medical practitioners by any of the Acts relating to the practice of medicine and surgery in this Province, and they may be registered as pharmaceutical chemists without undergoing examination; nor shall anything in this Act prevent any person whatsoever from selling goods of any kind to any person legally authorized to carry on the business of an apothecary, chemist or druggist, or the profession of a doctor of medicine, physician or surgeon, or veterinary surgeon, nor prevent the members of such professions supplying to their patients such medicine as they may require, nor interfere with the business of wholesale dealers in supplying poisons or other articles in the ordinary course of wholesale dealing.

(2) Nothing in this Act shall prevent any member of the College of Physicians and Surgeons of Ontario from engaging in and carrying on the business of an apothecary, chemist or druggist, without registration under the provisions of this Act. 47 V. c. 22, s. 31.

Executors may carry on business of deceased chemist, etc.

32. Upon the decease of any person legally authorized and actually carrying on the business of chemist and druggist at the time of his death, it shall be lawful for the executor, administrator or trustee of the estate of such person to continue the business if and so long only as such business is *bona fide* conducted by a pharmaceutical chemist registered under this Act, provided such executor, administrator or trustee continues to pay the annual registration fee of \$4. 47 V. c. 22, s. 32.

HONORARY MEMBERS.

33. It shall be competent for the council of the College to elect as honorary members such persons as may be eminent for their scientific attainments, but such honorary members shall not as such be entitled to vote at elections or carry on the business of pharmaceutical chemists. 47 V. c. 22, s. 33.

Election of
honorary
members.

SCHEDULE A.

(Sections 24, 25 and 26).

PART I.

Acid, Hydrocyanic (Prussic),	Ergot,
Aconite and compounds thereof,	Hemp, Indian,
Antimony, Tartrate of,	Morphia and its salts and solutions,
Arsenic and all the compounds thereof,	Oil, Cedar,
Atropine,	Strychnine and NuxVomica,
Conia and the compounds thereof,	Savin and preparations of,
Corrosive sublimate,	Veratria.
Digitaline,	

PART II.

Acid, Oxalic,	Iodine,
Belladonna and the compounds thereof,	Opium, with its preparations, in-
Beans, Calabar,	cluding laudanum, etc, but not
Cantharides,	paregoric,
Carbolic Acid,	Pink Root,
Chloral Hydrate,	Podophyllin,
Chloroform and Ether,	Potassium, Iodide of,
Conium and the preparations thereof,	Potassium, Bromide of,
Croton Oil and seeds,	St. Ignatius Beans,
Cyanide of Potassium,	Santonine,
Euphorbium,	Scammony,
Elaterium,	Stramonium and preparations,
Goulard Extract,	Valerian,
Hyosciamus and preparations,	Verdigris,
Hellebore.	Zinc, Sulphate of.

47 V. c. 22, Sched. A

SCHEDULE B.

(Section 13.)

Name.	Residence.	Qualification.	Remarks.
A. B.	Kingston.	In business for three years prior to 15 Feb. 1871.	Dead.
C. D.	Hamilton.	Examined and Certified, July 12, 1871.	Erased by order of the Lieut. - Gov., dated 14 Oct. 1875.
E. F.	London.	Served apprenticeship and as assistant.	

47 V. c. 22, Sched. B.

SCHEDULE C.

(Section 26.)

Date.	Name of purchaser.	Name and quantity of poison sold.	Purpose for which it is required.	Signature of purchaser.	Address of purchaser.	Name of person introducing purchaser.

47 V. c. 22, Sched. C.

SCHEDULE D.

(Section 17.)

I hereby certify that *C. D.* having first passed the examination prescribed by the Pharmaceutical Council, (*or as the case may be*), was on the _____ day of _____ duly registered as a Pharmaceutical Chemist, and is authorized to carry on the business of Chemist and Druggist in the Province of Ontario, from the _____ day of _____ A. D. 18 _____ to the _____ day of _____ A. D. 18 _____.

(Signed)

E. F.

[Corporate Seal.]

Registrar of the Ontario College of Pharmacy.

47 V. c. 22, Sched. D.

7. LAND SURVEYORS.

CHAP. 152.—LAND SURVEYORS AND SURVEY OF LANDS, p. 1395.

CHAPTER 152.

An Act respecting Land Surveyors and the Survey of Lands.

INTERPRETATION, s. 1.	OATH OF ALLEGIANCE AND OF OFFICE, s. 22.
WHO ONLY MAY ACT AS LAND SURVEYORS, s. 2.	SUSPENSION OF SURVEYORS, s. 23.
BOARD OF EXAMINERS, ss. 3-6.	FEES, ss. 24, 25.
ADMISSION OF APPRENTICES, ss. 7-9.	ESTABLISHMENT OF BOUNDARY LINES, s. 26.
QUALIFICATIONS FOR ADMISSION TO PRACTICE :	STANDARD OF MEASURE, ss. 27, 28.
In general, s. 10.	CHAIN-BEARERS—OATH OF, s. 29.
Persons admitted elsewhere, s. 11.	POWER TO PASS OVER LANDS IN DISCHARGE OF DUTY, s. 30.
Persons holding University degrees, s. 12 (1).	SURVEY OF BOUNDARY LINES, ss. 31-61.
Persons who have studied at school of Practical Science, s. 12 (2).	PRIVATE SURVEYS IN CITIES, TOWNS AND VILLAGES :
Dominion land surveyors, s. 13.	Road allowances, s. 62.
Graduates of Military College, Kingston and School of Practical Science, s. 14	Registration of plans of, ss. 63-68.
Transfer of apprentices, ss. 15-16.	Plans to be lodged with treasurer of municipality, s. 69.
Instrument of apprenticeship to be filed, s. 17.	SURVEYORS :
EXAMINATION OF CANDIDATES FOR ADMISSION TO PRACTICE, ss. 18-20.	Journals and field notes of, s. 70.
CERTIFICATES OF ADMISSION, ss. 19, 20.	Administration of oaths by, s. 71.
SECURITY, s. 21.	Manner of taking of evidence by, s. 72.
	OFFENCES AND PENALTIES, C. S. C. c. 77, ss. 31 and 107, and R. S. C. c. 168, ss. 56 and 57, p. 1417.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The expression “Commissioner of Crown Lands,” wherever it occurs in this Act, shall mean the person discharging the duties of that officer. 50 V. c. 25, s. 1. Interpretation.

LAND SURVEYORS.

Who may act
as land sur-
veyor.

2. No person shall act as a surveyor of lands within this Province unless he has been duly authorized to practise as a land surveyor according to the provisions of this Act, or had been so authorized before the passing thereof, according to the laws then in force, under a penalty of \$40. 50 V. c. 25, s. 2.

BOARD OF EXAMINERS.

Board of ex-
aminers.

3. There shall be a board of examiners for the examination of candidates for admission to practise as land surveyors, to consist of the Commissioner of Crown Lands, the Professor of Mineralogy and Geology in University College, Toronto, and eight other competent persons to be appointed from time to time by the Lieutenant-Governor, who shall meet at the city of Toronto for the examination of candidates for admission to practise as land surveyors in Ontario. 50 V. c. 25, s. 3.

Oath of office.

4.—(1) Each member of the board, save and except the Commissioner of Crown Lands, shall take an oath of office before a Judge of the High Court or of any County Court; and any three of the members shall form a quorum.

(2) The following shall be the form of the oath of office :

I, _____ of _____
having been appointed a member of the Board of Examiners for the ad-
mission of Provincial Land Surveyors for the Province of Ontario, do
sincerely promise and swear that I will faithfully discharge the duties of
such office without favour, affection or partiality : So help me God.

Sworn before me,
at _____
this _____ day
of _____ 18 _____

}

50 V. c. 25, s. 4.

Secretary
to the board.

5. The said board, or a majority thereof, shall from time to time appoint a fit and proper person to be secretary of the board, who shall attend the sittings thereof, and keep a record of its proceedings. 50 V. c. 25, s. 5.

Meetings
when and
where to be
held.

6. The said board shall meet at the office of the Commissioner of Crown Lands, on the first Monday in each of the months of April and November, in every year, unless such Monday be a holiday (in which case they shall meet on the day next thereafter not being a holiday), and may adjourn such meeting from time to time if they deem it necessary. 50 V. c. 25, s. 6.

APPRENTICES.

7. No person shall be admitted as an apprentice with any provincial land surveyor unless he has previously passed an examination before the board of examiners as to his penmanship and orthography, fractions, decimals, square-root, logarithms, algebra (including equations to the first degree), Euclid (first four books), plane trigonometry, the rules for spherical trigonometry, mensuration of superficies, the use of ruling pen and construction of plain and comparative scales, and has obtained a certificate of such examination and of his proficiency from the board. 50 V. c. 25, s. 7.

Qualification for admission as an apprentice, and examination of applicants.

8. Before being so examined he shall pay into the fee fund the sum of \$10 as the fee due by him on the examination, and a further sum of \$2 to the secretary for the said certificate. 50 V. c. 25, s. 8.

Examination fee.

9. Applicants for examination previous to apprenticeship, shall give one month's notice to the secretary of the board of their intention to present themselves for examination, and pay to the secretary a fee of \$1 for receiving and entering such notice. 50 V. c. 25, s. 9.

Notice to be given by applicants.

QUALIFICATION FOR ADMISSION TO PRACTISE.

10. Except as hereinafter provided no person shall be admitted to practise as a land surveyor in and for Ontario until he has attained the full age of 21 years, and has passed an examination before the board of examiners in the following subjects, viz., geometry, including the first six books of Euclid, (with the exception of the last thirteen propositions of the fifth book) algebra, including progressions, plane and spherical trigonometry, mensuration of superficies, laying out and dividing of land, descriptions by metes and bounds for deeds and other documents, the use and adjustment of surveying and levelling instruments, the laying out of curves, practical astronomy, including finding of time, latitude, longitude, azimuth, variation of the compass, and drawing meridian lines, the Acts relating to the survey of lands in Ontario, the general mining Act, the registry Act, so far as it refers to plans, the municipal Acts, so far as they relate to roads, surveys and drainage, the ditches and watercourses Act, the theory and practice of levelling, the principles of evidence, drawing of affidavits, taking of field notes and preparing plans, the rudiments of geology and mineralogy, and the sufficiency of his surveying instruments, and has served regularly and faithfully, for three successive years, under an instrument in writing duly executed before two witnesses, as apprentice to a land surveyor for Ontario, duly admitted and practising therein as such, nor

Qualification for admission to practise.

until he has received from the said land surveyor a certificate of his having so served during the said period, or proves to the satisfaction of the board that he has so served. 50 V. c. 25, s. 10.

Admission of persons previously admitted in any part of Her Majesty's dominions.

11. It shall not be necessary for a land surveyor, duly admitted to practise in any of Her Majesty's dominions other than this Province, to serve under an instrument in writing during three years as aforesaid, but it shall only be necessary for any such person admitted in the Province of Quebec so to serve during six months of actual practice in the field with a land surveyor duly admitted and practising in this Province, and for any other such person so to serve during twelve successive months of actual practice, after which, on complying with all the other requirements hereof, he may undergo the examination by this Act prescribed. 50 V. c. 25, s. 11.

The case of persons who have received university degrees or diplomas as engineers or land surveyors.

12.—(1) A person who has followed a regular course of study in all the branches of education required by law for final admission as a land surveyor, through the regular sessions for at least two years in any university of the Province, or in McGill University, in the city of Montreal in the Province of Quebec, wherein there is organized a complete course of instruction, practical as well as theoretical, in civil engineering, natural philosophy, geology, and other branches of education required by law for admission as a land surveyor, and who has thereupon received from such university, after due examination, a degree or diploma of qualification as a civil engineer and land surveyor, may, after having passed the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, be received as an apprentice by any practising land surveyor, and shall thereupon be only holden to serve as such apprentice during twelve successive months of actual service, or if he has passed through such university course of study in less time than two full years, then for such time of actual service as, with the period spent by him in such university course of study, suffices to make up the full time of three years.

Case of persons who have studied at School of Practical Science.

(2) A person who has followed a regular course of study at the Ontario School of Practical Science in the subjects of drawing, surveying and levelling, and geodesy and practical astronomy, and who has thereupon received, after due examination a certificate of having passed one session, two sessions or three sessions, as the case may be, in the study of the aforesaid subjects may, after having passed the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, be received as an apprentice by any practising land surveyor, and shall thereupon, if he has received a certificate of having passed three sessions in the study of the said subjects, be only holden to serve as such apprentice during twelve successive months of actual service; or, in case he has

only received a certificate of having passed only one or two sessions, as the case may be, in the study of the said subjects, then for such time of actual service as, with the period spent by him at such session or sessions, suffices to make up the full time of three years.

(3) After such actual service such person shall, subject to the other provisions of this Act, have the same right to undergo the examination required by law, and, if found qualified, to be admitted to practise as a land surveyor as if he had served the full three years' apprenticeship otherwise required by law. 50 V. c. 25, s. 12.

13. In case a Dominion land surveyor under *The Dominion Lands Act* applies for a commission as a land surveyor of this Province, if the board of examiners for the time being are of opinion that the qualifications required of a surveyor of Dominion lands, at the time of the commission having been granted to such surveyor under *The Dominion Lands Act*, were sufficiently similar to those set forth in this Act such surveyor shall be entitled to a certificate of admission as a land surveyor of this Province, without being subjected to any examination except as regards the system of survey of lands in Ontario. 50 V. c. 25, s. 13.

14. The privilege of a shortened term of apprenticeship shall also be accorded to any graduate of the Military College at Kingston, or of the Ontario School of Practical Science, and such person shall not be required to pass the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, but shall only be bounden to serve under articles with a practising land surveyor, duly filed as required by section 17 of this Act, during twelve successive months of actual practice, after which, on complying with all the other requirements, he may undergo the examination by this Act prescribed. 50 V. c. 25, s. 14.

15. If a surveyor dies or leaves the Province, or is suspended or dismissed, his apprentice may complete his term of apprenticeship, under an instrument in writing as aforesaid, with any other surveyor duly admitted. 50 V. c. 25, s. 15.

16. A surveyor may, by an instrument in writing transfer an apprentice, with his own consent, to another practising surveyor duly admitted, with whom he may serve the remainder of the term of his apprenticeship. 50 V. c. 25, s. 16.

17. No instrument in writing under which an applicant for admission to practise as a surveyor claims to have served with some practising surveyor for the period of three years, twelve months or six months, (as the case may be), shall avail to authorize the admission of an applicant, unless the in-

strument, has been transmitted to the secretary of the board within two months next after the date thereof, nor unless the fee mentioned in section 25 of this Act was by the apprentice paid to the secretary of the board at the time of transmitting the indenture or articles; and the said secretary shall acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and shall carefully keep the same in his office. 50 V. c. 25, s. 17.

ADMISSION OF CANDIDATES.

Notice of examination to be given by candidates for admission.

18. Every person desiring to be examined by the board as to his qualification to be admitted as a land surveyor, shall give notice thereof in writing to the secretary of the board, at least one month previous to the meeting thereof. 50 V. c. 25, s. 18.

The board to require certificates of good conduct, &c.

19. Every person applying for admission to practise as a land surveyor shall produce to the board satisfactory certificates as to character for probity and sobriety, and before a certificate is granted shall perform such practical operations in the presence of the board, and shall answer such questions on oath (which oath any member of the board may administer) with regard to the actual practice of such applicant in the field, and with regard to his surveying instruments as the said board may require. 50 V. c. 25, s. 19.

If the examiners approve of the candidate they are to grant him a certificate.

20. If the said examiners are satisfied as to the qualifications of the candidate, and his compliance with all the requirements of this Act, they shall grant him a certificate in the form following:

"This is to certify to all whom it may concern, that *A. B.* of in the County of _____ has duly passed his examination before the board of examiners, and has been found qualified to fill the office and perform the duties of a Provincial Land Surveyor in and for Ontario, he having complied with all the requirements of the law in that behalf. Wherefore the said *A. B.* is admitted to the said office, and is by law authorized to practise as a land surveyor in Ontario.

"In witness whereof, we have signed this certificate at the City of Toronto, in the County of York, and Province of Ontario, Dominion of Canada, the _____ day of _____ 18 ____."

Signature of the Chairman, "C. D."

Signature of the Secretary, "E. F."

And such certificate shall, on his complying with the other requirements of this Act, enable him to practise as a land surveyor in and for Ontario. 50 V. c. 25, s. 20.

Licentiate to give bonds and take the oaths of allegiance and of office.

21.—(1) Each applicant, before receiving the above mentioned certificate, shall, with two sufficient sureties to the satisfaction of the said board of examiners, enter into a bond jointly and severally in the sum of \$1,000 to Her Majesty Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office.

(2) The said bond shall be deposited and kept in the manner by law prescribed with regard to bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof; and the certificate shall be registered in the office of the Provincial Secretary. 50 V. c. 25, s. 21.

Where bonds
to be depo-
sited.

22.—(1) Each applicant, after having been granted a certificate, shall also take and subscribe the oath of allegiance, and the following oath, before the board of examiners, who are hereby empowered to administer the same :

Oaths.

"I, A. B. do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a land surveyor, agreeably to law, without favour, affection or partiality : So help me God."

(2) The said oath of allegiance and of office shall be deposited in the office of the Provincial Secretary. 50 V. c. 25, s. 22.

23. The board of examiners may in their discretion suspend or dismiss from the practice of his profession, any land surveyor whom they find guilty of gross negligence or corruption in the execution of the duties of his office; but the board shall not take action until the complaint under oath has been filed with the board, and a copy thereof forwarded to the party accused, nor shall the board suspend or dismiss such land surveyor without having previously summoned him to appear in order to be heard in his defence, nor without having heard the evidence offered either in support of the complaint or in behalf of the surveyor inculpated. 50 V. c. 25, s. 23.

When the
board may
suspend li-
censed sur-
veyors.

24. The Commissioner of Crown Lands shall pay to each member of the board of examiners and the secretary of the board, who attends any examination, the sum of \$5 for each day's attendance, and charge the same in his account as part of the expenses of his office. 50 V. c. 25, s. 24.

Fees to be paid
to the mem-
bers of the
board.

25. The following fees shall be paid under the provisions of this Act:

Tariff or fees.

1. To the secretary of the board of examiners, by each Apprentice, at the transmitting to such secretary the Indenture or Articles of such apprentice..... \$2 00
2. To the secretary of the board by each candidate for examination with his notice thereof 1 00
3. To the secretary of the board by each applicant obtaining a certificate, as his fee thereon 2 00
4. To the secretary of the board as an admission fee by each applicant receiving a certificate, out of which the expenses attending the examination of such applicant (if any) shall be first paid, and the remainder (if any) shall be paid over to the Commissioner of Crown Lands and be accounted for like other moneys received by him 20 00

5. To every surveyor summoned to attend any court, civil or criminal, for the purpose of giving evidence in his professional capacity as a surveyor, for each day he so attends, in addition to his travelling expenses (if any), and to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court \$5 00

50 V. c. 25, s. 25.

BOUNDARY LINES.

The establishment of boundary lines regulated.

- 26.** All boundary or division lines legally established, and ascertained under the authority of any Ordinance or Act heretofore in force, shall remain good, and all other acts or things legally done and performed under the authority of the said Ordinance and Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding the repeal of such Ordinance or Act. 50 V. c. 25, s. 26.

The standards of measure regulated.

- 27.** The standard of English measure of length, compared with and corrected by the standards for such measures established in this Province, and procured by the Commissioner of Crown Lands for the purpose of comparing therewith the standards to be kept by each surveyor as hereinafter provided, shall be deposited with the secretary of the board of examiners at Toronto, and the said secretary, under such instructions as he from time to time receives from the board, shall examine, test and stamp each standard measure of length for the surveyors, bringing the same for examination as the Commissioner of Crown Lands may do and with the same effect; and for each measure so examined and stamped such secretary may demand and receive fifty cents. 50 V. c. 25, s. 27.

Surveyors to procure stamped standard measures.

- 28.** Every land surveyor duly admitted and practising shall procure and shall cause to be examined, corrected and stamped or otherwise certified by the Commissioner of Crown Lands, or some one deputed by him for that purpose, or by the secretary aforesaid, a standard measure of length, under the penalty of the forfeiture of his license or certificate, and shall, previously to proceeding on any survey, verify by such standard the length of his chains and other instruments for measuring. 50 V. c. 25, s. 28.

Chain-bearers to be sworn, and nature of the oath.

- 29.** Every chain-bearer shall, before he commences his chaining or measuring, take an oath or affirmation to act as such justly and exactly according to the best of his judgment and ability and to render a true account of his chaining or measuring to the surveyor by whom he has been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law—that is to say, within the degree of cousin-german, which oath the surveyor employing such chain-bearer is hereby authorized and required to administer; nor

shall any person related or allied to any of the parties within the said degree be employed as a chain-bearer on any survey. 50 V. c. 25, s. 29.

30. A land surveyor, when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearings of any line or limit whatsoever, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person. 50 V. c. 25, s. 30.

When land surveyors may pass over private lands.

31. Where a surveyor is in doubt as to the true boundary or limit of any township, concession, range, lot or tract of land which he is employed to survey, and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person does not willingly appear before and be examined by such surveyor, or does not willingly produce to him such writing, plan or document, such surveyor or the party employing him may file in the office of the County Court a præcipe for a subpoena or subpoena *duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge may order a subpoena to issue accordingly, commanding such person to appear before the surveyor, at a time and place to be mentioned in the said subpoena and to bring with him any writing, plan or document mentioned or referred to therein. 50 V. c. 25, s. 31.

Course to be adopted by surveyors to ascertain boundary line, when doubtful, etc.

May subpoena witnesses.

32. The subpoena shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some grown person of his family at his residence, exhibiting to him or to such grown person the original. 50 V. c. 25, s. 32.

Service of subpoena.

33. If the person commanded to appear by the subpoena after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor at the time and place appointed in the subpoena, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, the person so summoned shall be deemed guilty of a contempt of the Court out of which the subpoena issued, and an attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of the Judge. 50 V. c. 25, s. 33.

Penalty of disobeying

Stone monuments may be placed at certain points in townships,

34. Stone monuments, or monuments of other durable materials, shall be placed at the several corners, governing points or off-sets of every township already surveyed, or after this Act takes effect from time to time surveyed, and also at each end of the several concession lines of such townships; and lines drawn in the manner hereinafter prescribed from the monuments so erected, shall be taken and considered to be the permanent boundary lines of such townships and concessions respectively. 50 V. c. 25, s. 34.

Under direction of Commissioner of Crown Lands.

35. The monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands. 50 V. c. 25, s. 35.

Boundaries ascertained as aforesaid to be deemed the true ones.

36. The courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be the true courses and lengths of the boundary lines of the said townships and concessions, whether the same do or do not, on actual survey, coincide with the courses and lengths in any letters patent of grant or other instrument mentioned and expressed in respect of such boundary lines. 50 V. c. 25, s. 36.

Monuments need not be placed under ss. 34-36 except on the application of the municipal council.

37. It shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the last preceding three sections of this Act into execution, until an application for that purpose has been made to the Lieutenant-Governor, by the council of the county in which the township or townships interested is situate, and such council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any township or concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied. 50 V. c. 25, s. 37.

In what cases the municipal council may apply to have monuments placed.

38.—(1) And whereas in several of the townships in Ontario some of the concession lines, and side road lines, or parts of the concession lines and side road lines were not run in the original survey performed under competent authority, and the survey of some of the concession lines and side road lines, or parts of the concession lines and side road lines have been obliterated, and owing to the want of such lines the inhabitants of such concessions are subject to serious inconvenience, therefore the municipal council of the township in which such lines are situated, may, on application of one-half the resident landholders in any concession, or part of concession, or upon its own motion without such application, apply to the Lieutenant-Governor, requesting him to cause any such line or lines to be surveyed and marked by permanent stone or iron boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each concession or part of a concession interested.

(2) The concession lines, where not run, or where they have been obliterated, shall be so drawn as to leave each of the adjacent concessions of a depth proportionate to that intended in the original survey. As to the adjacent concessions.

(3) The survey of the parts of those concession lines intended to be straight, and which were not run or which have been obliterated, shall be established by drawing a straight line between the two nearest points or places where such line or lines can be clearly and satisfactorily ascertained. Establishment of lines.

(4) The lines or parts of lines so surveyed and marked as aforesaid, shall thereafter be the permanent boundary lines of such concession or side roads, or parts of concessions or side roads, to all intents and purposes of law whatsoever. To be permanent boundary lines.

(5) The council shall cause to be laid before them an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such concession or part of a concession, in the same manner as any sum required for any other purposes authorized by law may be levied. 50 V. c. 25, s. 38. Expenses to be estimated and provided for.

39.—(1) Whenever the municipal council of any township, city, town or incorporated village adopts a resolution, on application of one-half the resident landholders to be affected thereby, or upon its own motion, that it is desirable to place stone or other durable monuments at the front or at the rear, or at the front and rear angles of the lots in any concession or range or block or part of a concession, or range or block in their township, city, town, or incorporated village, such municipal council may make application to the Lieutenant-Governor, in the same manner as is provided in section 38, praying him to cause a survey of such concession or range or block, or part of a concession or range or block, to be made, and such boundaries to be planted, under the authority of the Commissioner of Crown Lands. Municipal councils may cause the boundaries of lots to be ascertained and marked.

(2) The surveyor making such survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in such concession or range or block, or part of a concession or range or block, and the limits of each lot so ascertained and marked shall be the true limits thereof. Boundaries to be marked durable monuments.

(3) The cost of such survey shall be defrayed in the manner prescribed by section 38 of this Act. 50 V. c. 25, s. 39. How cost to be defrayed.

40. All expenses incurred in performing any survey, or placing any monument or boundary under the provisions of section 34 and the following sections, shall be paid by the county treasurer to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands. 50 V. c. 25, s. 40. Expenses how paid.

Boundaries placed under the authority of the Government to be deemed the true ones, etc.

41. All boundary lines of townships, cities, towns and villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores and commons, and all side lines and limits of lots surveyed, and all trees marked in lieu of posts and all posts or monuments, marked, placed or planted at the front or rear angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada or of Canada, or under the authority of the Executive Government of this Province, shall be the true and unalterable boundaries of all and every such townships, cities, towns, villages, concessions, sections, blocks, gores, commons, and lots or parcels of land, respectively, whether the same upon admeasurement be found to contain the exact width, or more or less than the exact width mentioned or expressed in any letters patent, grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land. 50 V. c. 25, s. 41.

Townships, etc., to comprise all the space included within their boundaries.

42. Every township, city, town, village, concession, section, block, gore, common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed at the front angles thereof respectively, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof notwithstanding. 50 V. c. 25, s. 42.

As to aliquot parts of townships, etc.

43. Every patent, grant or instrument, purporting to be for any aliquot part of any concession, section, block, gore, common, lot or parcel of land in any such township, city, town or village, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument. 50 V. c. 25, s. 43.

Road allowances in cities, etc., to be public highways.

44. In every city, town or village, or any part thereof, which has been surveyed by the authority aforesaid, all allowances for any road, street, lane or common laid out in the original survey of such city, town or village, or any part thereof, shall be public highways and commons; and all posts or monuments placed or planted in the original survey of such city, town or village, or any part thereof, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of every such road, street, lane, lot and common; and all land surveyors, employed to make surveys in such city, town or village, or any part thereof, shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in townships. 50 V. c. 25, s. 44.

45. All surveys of townships, tracts or blocks of land in this Province, granted by the Crown to companies and individuals before any surveys had been made therein, and which were afterwards surveyed by the owners thereof, shall be original surveys thereof, and shall have the same force and effect as though the said original surveys and plans thereof had been made by competent authority; and all allowances for roads or commons surveyed in such townships, tracts or blocks of land, and laid down on the plans thereof, shall be public highways and commons; and all lines run and marked in such original surveys, and all posts or monuments planted or placed in such original surveys to designate and define any allowance for road, concession, lot of land or common, shall be the true and unalterable lines and boundaries of such allowance for road, common or lot of land, and all land surveyors, when employed to make surveys in such townships, tracts or blocks of land, shall follow and pursue the same rules and regulations in respect of such townships, tracts or blocks of land, and the original surveys thereof, as they are by law required to follow and pursue in all townships, tracts or blocks of land surveyed by the authority aforesaid. 50 V. c. 25, s. 45.

As to lands granted in blocks and subsequently surveyed by the grantees.

46. The course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be the course of the division or side lines throughout the several townships or concessions respectively, provided that such division or side lines were intended, in the original survey performed under such authority as aforesaid, to run on the same course the said boundary. 50 V. c. 25, s. 46.

Governing lines declared.

47. Every surveyor shall run all division or side lines, which he is called upon by the owner or owners of any lands to survey on the same course as that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run on the same course as the said boundary. 50 V. c. 25, s. 47.

All side lines to be run on the same course governing lines.

48. Where that end of a concession, from which the lots are numbered, is wholly bounded by a lake or river, or other natural boundary, or where it has not been run in the original survey performed under competent authority as aforesaid, or where the course of the division or side lines of the lots therein was not intended in the original survey performed as aforesaid, to be on the same course as such boundary, the said division or side lines shall be run on the same course as the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be the same, and that such boundary line was run in the original survey. 50 V. c. 25, s. 48.

Course to be adopted where concession bounded by lakes or rivers.

Where division or side lines not intended to run parallel to the side lines at either end of a concession.

49. Where in the original survey, performed under competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be on the same course as the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary line at that end of the concession from which the lots are numbered, as is stated in the plan and field notes of the original survey, of record in the Department of Crown Lands, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey; or if neither of the aforesaid boundaries of the concession was run in the original survey, or if the concession is wholly bounded at each end by a lake or river, or other natural boundary, then at such angle with the course of the line in front of the said concession as is stated in the plan and field notes aforesaid, or if parts of the concession line have been run on different courses as shewn on said plans and field notes, then at such angle with the course of each of these parts, as is stated in the plan and field notes aforesaid. 50 V. c. 25, s. 49.

Where a division or proof line has been run between lots, the same shall govern.

50. If any division or side line between lots, or proof line intended to be on the same course as the division or side lines between lots, was drawn in any such concession, bounded as aforesaid, in the original survey thereof, the division or side lines between the lots therein shall be on the same course as such division or side line or proof line. 50 V. c. 25, s. 50.

Where there are two of such lines, the line nearest the end of the concession, from which the lots are numbered, to govern to the next of such lines.

51. Where two or more such division or side lines or proof lines were drawn in the original survey of such concession, bounded as aforesaid, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered, shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered, and the next division or side line or proof line drawn in the original survey: and such last mentioned line or proof line shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey, or to the boundary of the concession towards which the lots are numbered, as the case may be. 50 V. c. 25, s. 51.

How lines to be governed in townships laid out in sections under the O.C. of the 27th March, 1829, etc.

52. In all those townships which in the original survey were divided into sections, agreeably to an Order in Council bearing date the 27th day of March, 1829, or which have since been or shall be divided into sections or blocks of one thousand acres, or thereabouts, or six hundred and forty acres or thereabouts, as the case may be, under instructions from the Commissioner of Crown Lands, the division or side lines in all concessions, in any section or block, shall be governed by the

boundary lines of such section or block, in like manner as the division or side lines in townships originally surveyed before the said day, are governed by the boundary lines of the concession in which the lots are situated: Provided that in those sections or blocks the governing boundaries of which are broken by lakes or rivers in such a way that the course thereof cannot accurately be determined, a surveyor when called upon to run any side line in any concession in such section or block, shall run such side line on the astronomical course of the side lines of the lots in the township, as shewn on the original plan and field notes thereof, of record in the Department of Crown Lands. 50 V. c. 25, s. 52.

53. The front of each concession in any township, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that end or boundary of the concession which is nearest to the boundary of the township from which the several concessions thereof are numbered; and when the line in front of any such concession was not run in the original survey, the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the front line of the concession in the rear thereof, on the same course as the governing line determined as aforesaid, to the depth of the concession, that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field notes thereof of record in the Department of Crown Lands, having due respect to any allowance for a road or roads made in the original survey; and a straight line joining the extremities of the division or side lines of any lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the lot which was not run in the original survey. 50 V. c. 25, s. 53.

What shall be deemed the front of a concession in certain cases.

54. In those townships in which any concession is wholly bounded in front by a river or lake, where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, on the same course as the governing line, determined as aforesaid, to the river or lake in front. Where any concession is bounded in front at either end, in part though not wholly, by a river or lake, and no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the widths of the lots broken by said river or lake, the division or side lines of said broken lots shall be drawn from points on the rear of the concession determined

In townships fronting on a river or lake, how division lines to be drawn if no posts planted to mark the width of lots.

by measuring off the widths proportionately as intended in the original survey, from the intersection of the division or side line of the last whole lot of the original survey with the rear line of said concession, on the same course as the governing line, determined as aforesaid, to the river or lake in front. 50 V. c. 25, s. 54.

Fronts of concessions in certain other cases, depths of lots, &c.

55. In those townships in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands have been described in half lots, the division or side lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be the front of its respective half of such concession, and a straight line joining the extremities of the division or side lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. 50 V. c. 25, s. 55.

Mode of drawing lines in double fronted concessions.

56. And whereas some of the double front concessions are not of the full depth, and doubts have arisen as to the manner in which the division or side lines in such concessions should be established:—Therefore, in such concessions the division or side lines shall be drawn from the posts at both ends thereof, to the centre of the concession, as provided in the last preceding section of this Act, without reference to the manner in which the lots or parts of lots in such concession have been described for patent. 50 V. c. 25, s. 56.

As to concessions in cases where alternate concession lines only have been run.

57. In those townships in which each alternate concession line has only been run in the original survey, but with double fronts as aforesaid, the division or side lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession—that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the Department of Crown Lands; and each alternate concession line as aforesaid shall be the front of each of the two concessions abutting thereon. 50 V. c. 25, s. 27.

As to lands in adjoining concessions in the same grant.

58. In cases where any Crown patent of grant, or other instrument, has been issued for several lots or parcels of land in concessions adjoining each other, the side lines or limits of the lots or parcels of land therein mentioned and expressed, shall commence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line through several conces-

sions—that is to say, each lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument. 50 V. c. 25, s. 58.

59. Every land surveyor employed to run any division line or side line between lots, or any line required to run on the same course as any division line or side line in the concession in which the land to be surveyed lies, shall, if it has not been done before, or if it has been done but the course cannot at such time be ascertained, determine by astronomical observation the true course of a straight line between the front and rear ends of the governing boundary line of the concession or section, and shall run such division line or side line as aforesaid, on the same course as such straight line, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course; and the same rule shall be observed, if a line is to be run at any angle with a front line or other line which is not straight. 50 V. c. 25, s. 59.

Rule when a line is to be drawn on the same course as a governing line.

60.—(1) In all cases where a land surveyor is employed to run any side line or limits between lots, and the original post or monument from which such line should commence cannot be found, he shall obtain the best evidence that the nature of the case admits of, respecting such side line, post or limit; but if the same cannot be satisfactorily ascertained, then the surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in the original survey, as shewn in the plan and field-notes thereof, of record in the Department of Crown Lands; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the township in which such concession is situate, has been obliterated or lost, then the surveyor shall run a line between the two nearest points or places, where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in the original survey; and the limits of each lot so found shall be the true limits thereof.

Cases where the original post or monument cannot be found, provided for.

(2) In double front or alternate concessions, where an original post or monument cannot be found, any original post still standing, or the position of which is satisfactorily established

on the opposite side of the concession road allowance or on the centre line thereof, shall constitute the best evidence within the meaning of the preceding sub-section for the purpose of establishing the position of such missing post or monument. 50 V. c. 25, s. 60.

If side lines were drawn in original survey, the same to be adhered to.

61. In those townships in which the side lines of the lots were drawn in the original survey, every Provincial land surveyor when called upon to determine any disputed boundary in any of such townships, shall ascertain and establish the division or side lines of the lots, by running such side lines as they were run in the original survey, whether the same were in the original survey run from the front of the concession to the rear, or from the rear of the concession to the front, and shall adhere to all posts, limits or monuments, planted on the division or side lines in the original survey, as being or designating corners of lots under such original survey. 50 V. c. 25, s. 61.

As to allowances for roads or streets in cities, towns or villages laid out by private owners.

62.—(1) All allowances for roads, streets or commons, surveyed in cities, towns and villages, or any part thereof, which have been or may be surveyed and laid out by companies and individuals and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for roads, streets, or commons have been or may be sold to purchasers, shall be public highways, streets, and commons; and all lines which have been or may be run, and the courses thereof given in the survey of such cities, towns and villages, or any part thereof, and laid down on the plans thereof, and all posts or monuments which have been or may be placed or planted in the first survey of such cities, towns and villages, or any part thereof, to designate or define any allowances for roads, streets, lots or commons, shall be the true and unalterable lines and boundaries thereof respectively; and all land surveyors employed to make surveys in such city, town or village, or any part thereof, shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in townships: provided that the municipal corporation shall not be liable to keep in repair any road, street, bridge or highway laid out by any private person until established by by-law of the corporation or otherwise assumed for public use by such corporation, as provided in *The Municipal Act*.

Proviso.

Rev. Stat. c. 184.

City, town or village lots not to be laid out so as to interfere with any allowance for roads.

(2) No lot or lots of land in such cities, towns and villages shall be so laid out as to interfere with, obstruct, shut up, or be composed of any part of any allowance for road, common or commons, which were surveyed and reserved in the original survey of the township or townships wherein such cities, towns or villages, are or may be situate.

No private survey valid unless made by a licensed surveyor.

(3) No such private survey shall be valid unless performed by a duly authorized surveyor. 50 V. c. 25, s. 62.

63.—(1) Whenever any land is surveyed and sub-divided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the sub-division shall within three months from the date of the survey file with the registrar a plan of the land on a scale of not less than one inch to every four chains. The plan shall shew the number of the township, town or village lots, and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land shewn on the said plan, and where such plan is a sub-division of a lot, or lots, on a former plan, it shall shew the numbers or other distinguishing marks of the lot or lots sub-divided, and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons within the same, with the courses and widths thereof respectively, and the width and length of all lots, and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being sub-divided.

Registration of plans when land sub-divided.

(2) Every such map or plan before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is filed, and shall also be certified by some Provincial land surveyor in the form of Schedule L. to *The Registry Act*, as follows:—

Duty of registrars thereafter.
Rev. Stat. c. 114.

I hereby certify that this plan accurately shews the manner in which the land included therein has been surveyed and sub-divided by me; and that the said plan is prepared in accordance with the provisions of *The Registry Act*.

Form of surveyor's certificate on plan.

A. B.,
Provincial Land Surveyor.

Dated

18 .

and thenceforward the registrar shall keep an index of the lands described and designated by any number or letter on the map or plan, by the name by which such person, corporation or company designates the same in the manner provided by *The Registry Act*; and all instruments affecting the land or any part thereof, executed after the plan is filed with the registrar shall conform thereto, otherwise they shall not be registered.

Instruments must conform to plan.

(3) In the case of refusal by such person, corporation or company, his or their executors, agents, or attorneys, or successors, for two months after demand in writing for that purpose, to lodge the said plan or map when required by any person interested therein, or by the inspector, so to do, he or they shall incur a penalty of \$20 for each and every calendar month the said map or plan remains unregistered, which penalty may be recovered by any person complaining, in any Division Court in the county in which such lands are situated, in like manner as a common debt.

Penalty for refusing to lodge plan.

To what land
this section
applies.

(4) This section shall apply as well to lands already surveyed or sub-divided as to those which may hereafter be surveyed or sub-divided, subject to the next succeeding section. 50 V. c. 25, s. 63. *See also* Cap. 114, s. 84.

When plan
must be regis-
tered in case
of lands sub-
divided before
March 4th,
1868.

64. In sales of lands under surveys or sub-divisions made before the 4th day of March, 1868, where the survey or sub-divisions so differ from the manner in which the land was surveyed or granted by the Crown that the parcel so sold cannot be easily identified, the plan or survey shall be registered within six months after the passing of this Act, if the plan or survey is still in existence and procurable for registration and filing under the next preceding section, and if it is not, a new survey or plan shall be made by and at the joint expense of the persons who have made such surveys or sub-divisions, and of all others interested therein, by some duly authorized Provincial land surveyor, as nearly as may be according to the proper original survey or sub-division, and the same when so made shall be filed as if under the next preceding section of this Act. 50 V. c. 25, s. 64. *See also* Cap. 114, s. 85.

How to be
made.

Plan not bind-
ing until some
sale is made
under it; al-
terations in
plan.

65. In no case shall any plan or survey, although filed and registered, be binding on the person so filing or registering the same, or upon any other person, unless a sale has been made according to such plan or survey, and in all cases amendments or alterations of any such plan or survey may be ordered to be made, at the instance of the person filing or registering the same or his assigns, by the High Court, or by any Judge of the said Court, or by the Judge of the County Court of the county in which the land lies, if on application for the purpose duly made, and upon hearing all parties concerned, it be thought fit and just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed expedient. An appeal shall be from any such order to the Court of Appeal.

Proviso as to
streets.

(2) No part of any street or streets shall be altered or closed up, upon which any lot of land sold abuts, or which connects any such sold lot with or affords means of access therefrom to the nearest public highway.

(3) Nothing herein shall in any way interfere with the powers now possessed by municipalities in reference to highways. 50 V. c. 25, s. 65.

Copies of regis-
tered plans,
to be evidence
of the orig-
inals.

66. Every copy of such plan or map obtained from such registry office, and certified as correct by the registrar or deputy registrar as aforesaid shall be taken in all Courts as evidence of the original thereof and of the survey of which it purports to be a plan or map. 50 V. c. 25, s. 66.

67. Whenever any such plan or map has been so made and deposited as aforesaid the registrar shall make a record of the same, and enter the day and year on which the same is deposited in his office; and for such service the said registrar shall be entitled to charge the fees prescribed by *The Registry Act*, 50 V. c. 25, s. 67.

Duty of the registrar in whose office any such plan is deposited.
Rev. Stat. c. 114.

68.—(1) Where an incorporated city, town or village, or village not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and filed in accordance with section 63 of this Act, the municipal council of the township within which such unincorporated village is situated or of such incorporated city, town or village, shall, upon the written request of the inspector, or of any person interested, addressed to the clerk of the municipality, immediately cause a plan of such city, town or village, to be made upon the scale provided for under this Act, and to be registered in the registrar's office of the registry division within which the municipality lies, which map or plan shall have endorsed thereon the certificates of the clerk and head of the municipality and surveyor, that the same is prepared according to the directions of the municipality, and in accordance with this Act, and to the map or plan the corporate seal of the municipality shall be attached.

Plans of cities, towns or villages to be registered in certain cases.

(2) The expense attending the preparing and depositing of the map or plan shall be paid out of the general funds of the municipality, except in the case of unincorporated villages, where the same shall be paid by a special rate to be levied by assessment on all ratable property comprised in the unincorporated village, as described by metes and bounds in a by-law to be passed by the municipality for the purpose of levying such rate; and in case of the refusal of the municipality to comply with all the requirements of this section within six months next after being required in manner aforesaid so to do, the municipality shall incur the same penalty, and the same shall be recoverable in the manner provided in section 63 of this Act.

Payment of expenses

(3) Where land in a township has been or shall hereafter be sold under surveys or subdivisions, made in a manner which so differs from that in which the land was surveyed or granted by the Crown, that the parcel sold cannot be easily identified, and the map or plan has not been registered under this or any other Act in that behalf, the council of the township may, at the written request of the inspector, or of any person interested, cause a plan of such land to be made and registered in the same manner and with the same effect as in the case of an unincorporated village; and the expenses attending the preparation of and filing of the map or plan shall be paid by a special rate to be levied by assessment on the lands comprised in said map or plan, as described in a by-law to be passed by the

Registration of plans of township subdivisions in certain cases.

council for the purpose of levying such rate; and the municipality shall have the like remedies for the recovering of such last mentioned expenses as it has for compelling payment of taxes.

Obligations
not impaired.

(4) Nothing in this section contained shall be deemed or construed to relieve any person from any liability, duty, obligation, or penalty provided or imposed by or under any of the provisions of section 63 of this Act. 50 V. c. 25, s. 63.

Plans of sur-
veys to be
deposited with
treasurer of
municipality.

69. Every person who is required by this Act to lodge with the registrar a plan or map of any survey or subdivision of land made by him, or of any alteration of such survey or subdivision, shall also, within three months from the date of the survey, lodge with the treasurer of the municipality in which the land is situate a duplicate or copy of such plan or map, and in case of neglect or refusal so to do, within two months after notice in writing given by such treasurer requiring him to lodge such plan as provided by this section, every such person shall incur a penalty of \$20 for each and every month during which the default shall continue. 50 V. c. 25, s. 69.

Penalty.

Surveyors to
keep regular
journals and
field notes and
furnish copies
to parties
interested.

70. Every land surveyor shall keep exact and regular journals and field notes of all his surveys, and file them in the order of time in which the surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he is hereby allowed the sum of \$1 for each copy, if the number of words therein does not exceed four hundred words, but if the number of words exceeds four hundred, he is allowed ten cents additional for every hundred words over and above four hundred words. 50 V. c. 25, s. 70.

Surveyors may
administer
oaths for cer-
tain purposes.

71. For better ascertaining the original limits of any township, concession, range, lot, or tract of land, every land surveyor acting in this Province, shall and may administer an oath or oaths to each and every person whom he examines concerning any boundary, post or monument, or any original landmark, line, limit or angle of any township, concession, range, lot or tract of land which such surveyor is employed to survey. 50 V. c. 25, s. 71.

Evidence
taken by sur-
veyor to be re-
duced to
writing and
signed, etc.

72. All evidence taken by a surveyor as aforesaid shall be reduced to writing, and shall be read over to the person giving the same, and be signed by such person, or, if he cannot write, he shall acknowledge the same as correct before two witnesses, who, as well as the surveyor, shall sign the same; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by a surveyor, with reference to any survey by him performed may be filed and kept in the registry office of the registry division in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in any Court

within Ontario; and for receiving and filing the same the Fees. registrar shall be entitled to twenty-five cents; and the expense of filing the same shall be borne by the parties in the same manner as the other expenses of the survey. 50 V. c. 25, s. 72.

[Section 31 of C. S. C. c. 77, is as follows:

31. If any person or persons, in any part of this province, interrupts, molests or hinders any land surveyor, while in the discharge of his duty as a surveyor, such person or persons shall be guilty of a misdemeanor, and being thereof lawfully convicted in any court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such court, such imprisonment being for a period not exceeding two months, and such fine not exceeding twenty dollars, without prejudice to any civil remedy which such surveyor or any other party may have against such offender or offenders, in damages by reason of such offence. 12 V. c. 35, s. 14. See Schedule C to R. S. C. p. 2317.]

[Section 4 of C. S. U. C. c. 93, and section 107 of C. S. C. c. 77, consolidated in R. S. C. c. 168, ss. 56 and 57, are as follows:

56. Every one who knowingly and wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected planted or placed to mark or determine the boundaries of any Province, county, city, town, township, parish, or other municipal division, is guilty of felony, and liable to seven years' imprisonment. R. S. C. c. 168, s. 56.

57. Every one who knowingly and wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land, is guilty of a misdemeanor, and liable to a fine not exceeding one hundred dollars, or to three months' imprisonment, or to both.

2. Nothing herein shall prevent any land surveyor in his operation from taking up posts or other boundary marks when necessary, if he carefully replaces them as they were before. R. S. C. c. 168, s. 57.]

8. NOTARIES PUBLIC.

CHAP. 153.—NOTARIES PUBLIC, p. 1418.

CHAPTER 153.

An Act respecting Notaries Public.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The Lieutenant-Governor may appoint Notaries.

1. The Lieutenant-Governor may, from time to time, appoint as he thinks fit under his hand and seal at arms, one or more Notaries Public for this Province. R. S. O. 1877, c. 141, s. 1.

Powers of Notaries.

2. Every such Notary shall have, use and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter-parties and other mercantile transactions in this Province, and also of attesting all commercial instruments that may be brought before him for public protestation, and otherwise of acting as usual in the office of Notary, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the said calling of Notary Public during pleasure. R. S. O. 1877, c. 141, s. 2.

Notaries to have powers of Commissioners under Rev. Stat. c. 62.

3. Every Notary Public having authority in Ontario, shall have the same powers as a commissioner appointed under *The Act respecting Commissioners for taking Affidavits and Recognizances*. 48 V. c. 16, s. 1.

Power to take affidavits, etc., in all Courts or in matters pending before a Judge.

4. Every Notary Public may in any part of Ontario take and receive all such affidavits and affirmations (in cases where by law affirmation is allowed) as any person desires to make in or concerning any matter or thing depending or in anywise concerning any of the proceedings in the High Court, or in the Court of Appeal, and in any County or Division Court, or concerning any application made or depending before a Judge or Judges of any of said Courts, and in or concerning any application or matter made or pending before any Judge of any Court in this Province in which, by any statute now or hereafter in force in Ontario, such Judge is authorized to make any order, although such application or matter is not made or pending in any Court. 48 V. c. 16, s. 2.

5. Every Notary Public shall be deemed an officer of the High Court and of the Court of Appeal, and all affidavits and affirmations taken shall be of the same force as if taken before a Commissioner, and may be read and made use of as other affidavits and affirmations taken in Court. 48 V. c. 16, s. 4.

6. Any Notary Public misconducting himself in respect of the powers conferred upon him by the preceding three sections of this Act or by section 41 of *The Registry Act* shall be subject to the same penalty or punishment as a Commissioner in and for the High Court, and any power thereby conferred upon a Notary Public may be revoked in the same way and manner and to the same extent as if such power had been conferred upon him under any of the provisions of *The Act respecting Commissioners for taking Affidavits and Recognizances*. 48 V. c. 16, ss. 3, 5.

7.—(1) Any person other than a barrister or solicitor duly admitted as such in this Province, desirous of being appointed as a Notary Public, shall be subject to examination in regard to his qualification for the said office, by the County Court Judge of the county in which he resides, or by such other person as may from time to time be appointed in that behalf by the Lieutenant-Governor; and no such person shall be appointed a Notary Public without a certificate from the said County Court Judge, or such other person, that he has examined the applicant and finds him qualified for the office, and that in his opinion a Notary Public is needed for the public convenience in the place where the applicant resides and intends to carry on business.

(2) The Lieutenant-Governor in Council, may from time to time make regulations for such examination and certificate; and the Judge or other person examining shall be entitled to receive from the person examined a fee of \$5 for every examination. R. S. O. 1877, c. 141, s. 3.

9. MISCELLANEOUS.

CHAP. 154.—INNKEEPERS, p. 1420.

“ 155.—PAWNBROKERS, p. 1422.

CHAPTER 154.

An Act respecting Innkeepers.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpre-
tation.

1. In the construction of this Act—

“Inn,”

1. “Inn” shall include an hotel, inn, tavern, public house or other place of refreshment, the keeper of which is now by law responsible for the goods and property of his guests; and

“Innkeeper,”

2. “Innkeeper” shall mean the keeper of any such place. R. S. O. 1877, c. 147, s. 1.

Lien on bag-
gage, etc., for
accommoda-
tion, etc., fur-
nished, and
power to sell.

2.—(1) Every innkeeper, boarding-house keeper and lodging-house keeper shall have a lien on the baggage and property of his guest, boarder or lodger, for the value or price of any food or accommodation furnished to such guest, boarder or lodger, and, in addition to all other remedies provided by law, shall have the right, in case the same remains unpaid for three months, to sell by public auction the baggage and property of such guest, boarder or lodger, on giving one week's notice by advertisement in a newspaper published in the municipality in which the inn, boarding-house, or lodging-house is situate, or in case there is no newspaper published in the municipality, in a newspaper published nearest to such inn, boarding-house, or lodging-house, of the intended sale, stating the name of the guest, boarder or lodger, the amount of his indebtedness, a description of the baggage or other property to be sold, the time and place of sale, and the name of the auctioneer; and after the sale the innkeeper, boarding-house keeper, or lodging-house keeper may apply the proceeds of the sale in payment of the amount due to him, and the costs of such advertising and sale, and shall pay over the surplus (if any) to the person entitled thereto, on application being made by him therefor. R. S. O. 1877, c. 147, s. 2.

(2) Where an innkeeper, boarding-house keeper, lodging-house-keeper or livery stable keeper, has by law a lien upon a horse or other animal for the price or value of any food or accommodation supplied to such animal, or for care or labour bestowed thereon, he shall in addition to all other remedies provided by law, have the right, in case any part of such price or value remains unpaid for the space of two weeks, to sell by public auction such horse or other animal on giving two weeks' notice by advertisement in a newspaper published in the municipality in which the inn, boarding-house, lodging-house, or livery stable is situate, or in case there is no newspaper published in the municipality, in a newspaper published nearest to such inn, boarding-house, lodging-house, or livery stable, of the intended sale, stating (if known) the name of the person or persons who brought such horse or other animal to the inn, boarding-house, lodging-house, or livery stable, the amount of the indebtedness, a description of the horse or other animal, and the name of the auctioneer; and after the sale, the innkeeper, boarding-house keeper, lodging-house keeper or livery stable keeper may apply the proceeds thereof in payment of the amount due to him in respect of food or accommodation supplied, or care or labour bestowed as aforesaid, and the costs of such advertisement and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. 45 V. c. 16, s. 1.

Lien on horses,
etc., and pow-
er to sell.

3.—(1) No innkeeper shall be liable to make good to any guest of such innkeeper, any loss of or injury to goods or property brought to his inn (not being a horse or other live animal, or any gear appertaining thereto, or any carriage), to a greater amount than the sum of \$40 except in the following cases, that is to say:

Innkeeper not
liable for loss
of goods and
property of
guest beyond
\$40, unless
lost,

(a) Where such goods or property have been stolen, lost, or injured through the wilful act, default, or neglect of such inn-keeper, or any servant in his employ;

default,

(b) Where such goods or property have been deposited expressly for safe custody with such innkeeper.

or unless de-
posited with
him for safe
keeping.

(2) In case of such deposit, it shall be lawful for such innkeeper, if he thinks fit, to require as a condition of his liability that such goods or property shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the same. R. S. O. 1877, c. 147, s. 3.

4. If an innkeeper refuses to receive for safe custody, as before mentioned, any goods or property of his guest, or if such guest, through any default of such innkeeper, is unable to deposit such goods or property as aforesaid, the innkeeper shall not be entitled to the benefit of this Act in respect of such goods or property. R. S. O. 1877, c. 147, s. 4.

Liability for
refusal to take
charge of
goods.

Notice of law,
etc., to be con-
spicuously
exhibited.

5. Every innkeeper shall cause to be kept conspicuously posted in the office, and public rooms, and in every bedroom in his inn, a copy of section 3 of this Act, printed in plain type; and he shall be entitled to the benefit of the said section in respect of such goods or property only as are brought to his inn while such copy is so posted. R. S. O. 1877, c. 147, s. 5.

CHAPTER 155.

An Act respecting Pawnbrokers.

INTERPRETATION, s. 1.
LICENSE OF PAWNBROKER, ss. 2-6.
SIGN TO BE EXHIBITED, ss. 7-9.
RATES TO BE EXHIBITED, s. 10.
BOOKS TO BE KEPT, ss. 11, 12.
MEMORANDUM TO PAWNOR, ss. 13-16.
PAWNING GOODS OF OTHERS, OR GOODS
PARTLY MANUFACTURED, ss. 17-
20.
Concealment of goods, s. 21.
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HOLDER OF MEMORANDUM ENTITLED
TO GOODS, s. 23.
PROCEEDINGS ON NOTICE NOT TO
DELIVER, s. 24.
SALE OF UNREDEEMED GOODS, ss. 25-
33.
RESTRICTIONS ON PAWNBROKER, ss.
33, 34.
PROCEEDINGS WHEN GOODS LOST OR
IMPAIRED IN VALUE, ss. 35-38.
PROSECUTIONS, ss. 39-44.
LIABILITY OF EXECUTORS OF PAWN-
BROKER, s. 41.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Pawnbroker,
defined.

1. Every person who takes or receives, by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon, shall be deemed a pawnbroker within the meaning of this Act. R. S. O. 1877, c. 148, s. 1.

Pawnbrokers
to be licensed.

2. No person shall exercise the trade of a pawnbroker within any municipality in this Province unless he shall have obtained a license therefor under the hand of the treasurer of the municipality in which he carries on or purposes to carry on such trade, nor unless he shall obtain a renewal of the same annually, but no license shall be issued or renewed, unless the same shall have been first authorized by by-law of the council of said municipality. 47 V. c. 23, s. 1.

Penalty for
neglect to take
out license.

3. Every person exercising such trade without having obtained a license or renewal thereof, as aforesaid, shall for-

feit \$50 for every pledge he takes, to be recovered with costs in the same manner as the penalty with costs imposed in section 8 of this Act may be recovered. 47 V. c. 23, s. 1.

4. The sum of \$60 shall be paid for every license or renewal thereof to the treasurer, for the use of the municipality. 47 V. c. 23, s. 1. Fee for license.

5. No person shall, by virtue of one license, keep more than one house or shop, or place for taking in goods to pawn. R. S. O. 1877, c. 148, s. 5. A single license.

6. Any number of persons carrying on trade as pawnbrokers in partnership in the same house, shop or place need only take out a license for one house. R. S. O. 1877, c. 148, s. 6. Partners.

7. Every pawnbroker shall have a sign, with his name and the word "Pawnbroker" in large legible characters thereon placed over the door outside of the shop, or other place used by him for carrying on business. R. S. O. 1877, c. 148, s. 7. To exhibit a sign.

8. In case a pawnbroker neglects to have such sign so placed, he shall forfeit \$40 for every shop or place made use of for one week without having the same so put up, to be recovered with costs, before any Police Magistrate or two Justices of the Peace, and if not forthwith paid upon conviction, the same may, by warrant under the hand and seal of such Police Magistrate or two Justices of the Peace, be levied by distress and sale of the offender's goods, and the penalty shall belong and be paid to the municipality in which the offence was committed; and all other penalties recovered under this Act shall also belong and be paid to the municipality in which the offence was committed. 47 V. c. 23, c. 2. Penalty for neglect to exhibit sign.

9. If there is not a sufficient distress, or payment is not forthwith made, the offender shall be committed to the county or district gaol, for a term not exceeding three months nor less than fourteen days, unless the penalty and reasonable charges are sooner paid. R. S. O. 1877, c. 148, s. 9. Committal in default of distress.

10. Every pawnbroker shall cause to be painted or printed in large legible characters the rate of profit by this Act or by the Statutes of Canada allowed to be taken, and also the various prices of the notes or memorandums to be given according to the rates hereinafter mentioned, and an account of such as are to be given *gratis*, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed or fraudulently obtained, and shall place the same in a conspicuous part of the shop or place where the business is carried on, so as to be visible to and legible by persons pledging goods. R. S. O. 1877, c. 148, s. 10. Rates to be exhibited. See R. S. C. c. 128.

Entries to
be made by
pawnbrowsers.

11. Every pawnbroker who takes any goods by way of pawn or pledge, whereon a sum above \$1 is lent, shall, before he advances or lends the money thereon, enter in a fair and regular manner in a book to be kept by him for that purpose, a description of the goods received in pawn, pledge or exchange, and the sum lent thereon, with the day and year and name of the person by whom pawned, and the name of the street and number of the house, if numbered, where such person abides, and whether he is a lodger in or the keeper of such house, by using the letter L if a lodger, and the letter H if a housekeeper, and also the name and place of abode of the owner, according to the information of the person pawning the goods, into all which circumstances the pawnbroker shall inquire of the party before any money is advanced; and if the sum lent does not exceed \$1, a similar entry shall be made within four hours after the goods have been pawned. R. S. O. 1877, c. 148, s. 11.

If above \$2
lent.

12. Every pledge upon which there is lent above \$2 shall be entered in a book to be kept for that purpose, and to be kept separate from all other pledges, and every such entry shall be numbered in the book progressively as such goods are pawned in the following manner, viz.: the first pledge that is received in pawn No. 1, the second No. 2, and so on until the end of the month, and so on in every succeeding month throughout the year, and upon every note respecting such pledge shall be written the number of entry of the pledge so entered in the book aforesaid. R. S. O. 1877, c. 148, s. 12.

Note to be
given to the
pawnor.

13. At the time of taking any pawn, a note or memorandum, written or printed, shall be given to the person pawning, pledging or exchanging the same, containing a description of the goods pawned, pledged or exchanged, and also of the money advanced thereon, with the day of the month and year, and the names and places of abode, and numbers of the houses of the parties, and whether lodgers or housekeepers, by using the letters aforesaid, and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of abode of the pawnbroker, which note or memorandum the party pawning the goods is required to take, and unless he takes the same, the pawnbroker shall not receive and retain the pledge. R. S. O. 1877, c. 148, s. 13.

Fees therefor.

14.—(1) When the sum lent is under \$1, the note aforesaid shall be given *gratis*;

(2) If the sum lent is \$1 and under \$2, the pawnbroker may take one halfpenny or five-sixths of a cent;

(3) If \$2 and under \$5, he may take one penny or one cent and two-thirds of a cent;

(4) If \$4 and under \$20, he may take two pence or three and one-third cents ;

(5) If \$20 and upwards, he may take four pence or six and two-thirds cents. R. S. O. 1877, c. 148, s. 14.

15. The note shall be produced to the pawnbroker before he is obliged to re-deliver the goods, except as hereinafter provided. The note to be afterwards produced. R. S. O. 1877, c. 148, s. 15.

16. A duplicate of the note or memorandum shall be affixed to the goods pledged, and in all cases where goods pawned are redeemed, the pawnbroker shall write or endorse, or cause to be written or endorsed on every duplicate, the profit taken by him for the pledge, and shall keep the duplicate in his custody for one year next following. A duplicate to be affixed to the goods. R. S. O. 1877, c. 148, s. 16.

17. If any person knowingly and designedly pawns pledges or exchanges, or unlawfully disposes of the goods of any other person, not being employed or authorized by the owner so to do, any Justice of the Peace resident nearest to the place where the offence has been committed may grant his warrant to apprehend the offender ; and if he is thereof convicted by the oath of one witness, or by confession, before a Justice of the Peace, he shall forfeit not more than \$20 nor less than \$4, and also the value of the goods pawned, and if not forthwith paid, the convicting justice shall commit him to the common gaol of the district or county where the offence was committed, there to remain and be kept to hard labour for not more than three months, unless the forfeiture is sooner paid. Penalty for pawning goods of others. R. S. O. 1877, c. 148, s. 17.

18. The said forfeitures when recovered shall be applied towards making satisfaction thereout to the party injured, and defraying the costs of the prosecution, as may be adjudged reasonable by the convicting justice. Forfeitures, how applied. R. S. O. 1887, c. 148, s. 18.

19. If any person knowingly buys or takes in pawn or exchange from any journeyman mechanic, any goods of any manufacture or of any part or branch of any manufacture, either mixed or separate, or any materials plainly intended for manufacturing any goods after such goods or materials have been put into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials have been finished for the purpose of wear or consumption, or any goods, materials, linen or apparel which have been entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up, and is convicted thereof upon confession, or on the oath of one witness, before a justice of the district or county where the offence was committed, he shall forfeit the sum lent thereon, and forthwith restore the said goods or materials to the lawful owner. Consequences of taking good in pawn from journeyman. R. S. O. 1877, c. 148, s. 19.

Proceedings
by owners of
goods illegally
obtained.

20. If the owner of goods of any manufacture, or part or branch of any manufacture, either mixed or separate, or of any materials plainly intended for manufacturing any goods after such goods or materials have been put into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials have been finished for the purpose of wear or consumption, or of any linen or apparel which has been entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up as aforesaid, or of any other goods whatsoever, which have been unlawfully pawned or exchanged, makes out either on his oath or by the oath or solemn affirmation of one witness, before a justice aforesaid where such offence has been committed, that there is just cause to believe or to suspect that any person has taken to pawn or exchange any such goods without the owner's knowledge, and makes appear probable grounds for such suspicion, the justice may issue his warrant, for searching within the hours of business, the books, house, warehouse or any other place of the person so charged as suspected of having received the same without the privity of the owner; and if the occupier of such place, upon request made to him by any peace officer authorized to search, refuses to exhibit his pledge books, or to open such place as required to permit search to be made, the peace officer may break open the house, warehouse or other place on the said premises within the hours of business, and search as he may think fit for the goods suspected to be there, taking care to do no wilful damage, and no person shall oppose the same. R. S. O. 1877, c. 148, s. 20.

Search
warrant.

Of goods
found con-
sealed.

21. If after such refusal and upon forced search, any goods so pawned or exchanged as aforesaid are found, and the property of the owner is made out to the satisfaction of the justice, by the oath or solemn affirmation of one witness, or by the confession of the person charged, the justice shall cause the goods to be forthwith restored to the owner, and the occupier shall be fined not less than \$8 nor more than \$20 to be recovered as other fines before mentioned. R. S. O. 1877, c. 148, s. 21.

If goods not
redeemed
within a year,
and pawn-
broker refuses
to restore.

22. In case, within one year after any goods have been pawned or pledged for securing money lent, the pawnor, or other person on his behalf, tenders to the person who lent the money the note or memorandum required to be given by this Act, and also the principal money borrowed, and the profit according to the rates of this Act, and the person who took the goods in pawn neglects or refuses, without reasonable cause, to deliver back the goods so pawned, the pawnor may make oath thereof before a justice of the district or county where the offence has been committed, and the justice shall cause such person to come before him, and shall examine on oath the parties themselves, and such other credible persons as appear before

him touching the premises, and if tender of the note or memorandum, with the principal sum lent, and all profit thereon, is proved on oath to have been made within the time aforesaid, then on payment by the borrower of such principal money and the profit due thereon to the lender, and in case the lender refuses to accept thereof on tender before the justice, the justice shall thereupon, by order under his hand, direct the goods so pawned forthwith to be delivered to the pawnor, and if the lender neglects or refuses to deliver up or make satisfaction for the goods as the justice orders, the justice shall commit him to the common gaol of the district or county where the offence was committed, until he delivers up the goods according to the order, or makes satisfaction for the value thereof to the party entitled to the same. R. S. O. 1877, c. 148, s. 22.

23. The person who produces the note or memorandum aforesaid, and requires a delivery of the goods mentioned therein, shall be deemed the owner, so far as concerns the person who has the goods in pledge, and the pawnbroker, on receiving the principal and profit aforesaid, shall deliver the goods to the person producing the note or memorandum, and he shall be indemnified, unless he has had notice in writing from the real owner not to deliver the goods to the person producing the note or memorandum. R. S. O. 1877, c. 148, s. 23.

Holder of note
to be considered
owner.

24. In case a pawnbroker has had such previous notice, or in case the note or memorandum has been lost, mislaid, destroyed, or fraudulently obtained from the owner, and the goods mentioned therein are unredeemed :

Proceedings if
pawnbroker
notified not to
deliver.

1. The pawnbroker with whom the goods have been pledged shall, at the request of the person who represents himself as the owner thereof, deliver to such person a copy of the note or memorandum, with the form of an affidavit of the particular circumstances attending the case written thereon, as the same are stated to him by the party applying for the goods ;

2. The person receiving the copy and form of affidavit shall thereupon prove his property in or right to the goods to the satisfaction of some Justice of the Peace, and shall also make oath to the affidavit, before such justice, of the truth of the particular circumstances attending the case therein mentioned ;

3. The pawnbroker shall then suffer the person proving such property to redeem the goods on leaving the copy of the note or memorandum, and the affidavit, with him, the pawnbroker ;

4. In case the money lent does not exceed \$1, the pawnbroker may receive for the copy and affidavit, one penny or one and two-third cents ; if above \$1, and not exceeding \$4, two pence or three and a third cents ; and if above \$4, five cents. R. S. O. 1877, c. 148, s. 24.

When goods
may be sold.

25. All pawned goods shall be deemed forfeited, and may be sold at the expiration of one year from the time of pawning the same, exclusive of the day on which they were pawned. R. S. O. 1877, c. 148, s. 25.

At public
auction.

26. When the sum lent exceeds \$2 the goods shall be sold by the pawnbroker at public auction, and not otherwise. R. S. O. 1877, c. 148, s. 26.

Before sale,
goods to be
exposed to
view.

27. Before such public sale, the goods shall be exposed to public view, and a catalogue thereof published, containing the name and place of abode of the pawnbroker, a description of the goods separately, the month the goods were received in pawn, and the number of the pledge; and an advertisement giving notice of the intended sale, and containing the name and abode of the pawnbroker, and the month the goods were received in pawn, shall be inserted on two several days in some public newspaper, two days at least before the day of sale. R. S. O. 1877, c. 148, s. 27.

Penalty for
not properly
describing.

28. In case the goods are not described separately in the catalogue, the pawnbroker shall forfeit to the owner of the pledge not less than \$8 nor more than \$40, to be recovered as other fines under this Act. R. S. O. 1877, c. 148, s. 28.

Account of
sales to be
kept and
booked.

29. Every pawnbroker shall enter in a book, to be kept for that purpose, a just account of the sale of the goods by auction, expressing therein the day of the month the same were pledged, the name of the person who pledged, the day when and the money for which each pledge was sold, and the name and abode of the auctioneer. R. S. O. 1877, c. 148, s. 29.

Disposal of
surplus.

30. In case the goods have been sold for more than was due thereon, and in case of demand within three years after the sale, the overplus shall, after deducting the necessary costs and charges of the sale and catalogues, be paid to the person by whom or on whose account the goods were pawned. R. S. O. 1877, c. 148, s. 30.

Pawnor may
inspect
entries.

31. The person who pawned the goods, or the person for whom they were pawned, shall be permitted to inspect the entry made of the sale, on paying five cents for the inspection. R. S. O. 1877, c. 148, s. 31.

Consequence
of refusal to
permit inspection.

32. In case the pawnbroker refuses an inspection of the entry to the person who pawned the goods, or to his executor, administrator or assignee, upon the production of the letters testamentary, letters of administration or assignment, or in case the goods were sold for more than the sum entered in such book, or in case the pawnbroker did not make such entry, or did not *bona fide* sell the goods according to this Act, or refuses to pay the overplus on demand, he shall forfeit

\$40, and treble the sum the goods were originally pawned for, to the person by whom or on whose account they were pawned, to be recovered as other fines under this Act; and if the forfeiture is not forthwith paid, the sum shall be levied by distress by warrant of the justice before whom the conviction is had. R. S. O. 1877, c. 148, s. 32.

33. No pawnbroker having goods in pledge shall, either by himself or any other person for him, except at a public auction, purchase such goods during the time they remain in his custody as a pledge. Pawnbrokers not to purchase goods except at public auction R. S. O. 1877, c. 148 s. 33.

34. No pawnbroker shall—

1. Purchase, receive or take any goods in pledge, from any person who appears to be under the age of fifteen years, or to be intoxicated with liquor; nor

Restrictions upon pawnbrokers.

2. Purchase or take in pawn, pledge or exchange, the note or memorandum aforesaid of any other pawnbroker;

3. Employ any servant or other person under sixteen years of age to take any pledge;

4. Receive any goods by way of pawn, pledge or exchange, on any Fast or Thanksgiving Day appointed by authority, or on Sunday, nor on any other day, before eight o'clock in the morning, nor after eight o'clock in the evening, except on Saturday evenings, and the evenings preceding Good Friday and Christmas Day, at which last times the pawnbroker may keep his place of business open until ten o'clock in the evening. R. S. O. 1877, c. 148, s. 34.

35. In case it appears or is proved on oath before a Justice of the Peace, that the goods pawned were sold before the time limited, or have been embezzled or lost, or have become of less value than when pawned, through the neglect or wilful misbehaviour of the pawnbroker or his servants, the justice shall award a reasonable satisfaction to the owner in respect of such damages. If goods lost or damaged. R. S. O. 1877, c. 148, s. 35.

36. In case the sum so awarded does not amount to the principal and profit due to the pawnbroker, the pawnor may pay or tender the balance; and on so doing, the justice shall proceed as if the pawnor had paid or tendered the whole money due for principal and profit as aforesaid. Terms of redemption of such goods—tender of difference. R. S. O. 1877, c. 148, s. 36.

37. In case the satisfaction allowed is equal to or exceeds the principal and profit as aforesaid, the pawnbroker shall deliver the goods so pledged to the owner without being paid anything for the principal or profit, and also the excess, if any, under penalty of \$40, to be recovered as penalties hereinbefore mentioned. When without any tender. R. S. O. 1877, c. 148, s. 37.

Pawnbroker bound to produce.

38. When the justice thinks the production of any pawn-book, note, voucher, memorandum, duplicate or other paper necessary, which is or ought to be in the hands, custody or power of any pawnbroker, he shall summon him to attend with the same, and the pawnbroker shall be bound to produce the same in the state in which it was when the pawn was received; and in case the pawnbroker neglects or refuses to attend or to produce the same in its true and perfect state, he shall, unless he shews good cause to the satisfaction of the justice, forfeit not less than \$20 nor more than \$40, to be levied and recovered as fines hereinbefore mentioned. R. S. O. 1877, c. 148, s. 38.

Limitation of prosecutions.

39. No pawnbroker shall be liable to any prosecution before a justice under this Act, unless information is given within twelve months next after the offence committed. R. S. O. 1877, c. 148, s. 39.

What Justice may act.

40. The prosecution shall be before some neighbouring justice of the place where the offence was committed, but no person who has been convicted of fraud or felony shall prosecute or inform against any person for an offence against this Act. R. S. O. 1877, c. 148, s. 40.

Who cannot be informers.

Act to extend to executors, administrators, etc.

41. The provisions of this Act shall extend to the executors, administrators and assigns of every deceased pawnbroker, and also to the executors, administrators and assigns of the pawnor, but such executor, administrator or assign shall not be answerable for any penalty, personally or out of his own estate, unless forfeited by his own act. R. S. O. 1877, c. 148, s. 41.

No fee on Justice's summons.

42. No fee shall be taken for any summons or warrant granted by any justice under this Act, so far as the same relates to goods pawned, pledged or taken in exchange. R. S. O. 1877, c. 148, s. 42.

Stay of execution pending appeal.

43. In case of an appeal from the judgment of a justice or justices under this Act, the execution of the judgment shall be suspended, upon the person convicted entering into a recognizance, at the time of the conviction, with two sureties, in double the sum he has been adjudged to pay, to prosecute the appeal with effect, and to be forthcoming to abide the judgment and determination of the Court of General Sessions, and to pay such costs as may be awarded at the Sessions. R. S. O. 1877, c. 148, s. 43.

If judgment affirmed.

44. In case the judgment is affirmed, the appellant shall immediately pay the sum adjudged to be forfeited, together with such costs as the Court awards, or in default thereof, he shall suffer the penalties inflicted by this Act upon persons who do not upon conviction pay the forfeitures hereby imposed. R. S. O. 1877, c. 148, s. 44.

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